

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 AMENDED

5 May 18, 2010

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## **S. 1154**

8

9 Introduced by Senators Malloy, Knotts, Campsen, McConnell,  
10 Fair, Cromer, Ford, Elliott, Scott, Nicholson, Coleman, Massey,  
11 Cleary, Hutto, Peeler, Williams, Land, Rose, Campbell, L. Martin,  
12 Leventis, Leatherman, Setzler, O'Dell, Hayes and Pinckney

13

14 S. Printed 5/25/10--H.

15 Read the first time April 13, 2010.

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**A BILL**

TO ENACT THE OMNIBUS CRIME REDUCTION AND  
SENTENCING REFORM ACT OF 2010, RELATING TO  
CRIMINAL OFFENSES, CORRECTIONS, PROBATION, AND  
PAROLE PROVISIONS, SO AS TO AMEND THE CODE OF  
LAWS OF SOUTH CAROLINA, 1976, TO ENACT  
RECOMMENDATIONS PROPOSED BY THE SENTENCING  
REFORM COMMISSION REPORT OF FEBRUARY 2010.  
Amend Title To Conform

Be it enacted by the General Assembly of the State of South  
Carolina:

SECTION 1. This bill may be cited as “The Omnibus Crime  
Reduction and Sentencing Reform Act of 2010”. It is the intent of  
the General Assembly to preserve public safety, reduce crime, and  
use correctional resources most effectively. Currently, the South  
Carolina correctional system incarcerates people whose time in  
prison does not result in improved behavior and who often return  
to South Carolina communities and commit new crimes, or are  
returned to prison for violations of supervision requirements. It is,  
therefore, the purpose of this act to reduce recidivism, provide fair  
and effective sentencing options, employ evidence-based practices  
for smarter use of correctional funding, and improve public safety.

**PART I**

**Criminal Offenses Revisions**

SECTION 2. It is the intent of the General Assembly that the  
provisions in PART I of this act shall provide consistency in  
sentencing classifications, provide proportional punishments for  
the offenses committed, and reduce the risk of recidivism.

1  
2 SECTION 3. Section 16-11-110 of the 1976 Code is amended to  
3 read:

4  
5 “Section 16-11-110. (A) A person who wilfully and  
6 maliciously causes an explosion, sets fire to, burns, or causes to be  
7 burned or aids, counsels, or procures a burning that results in  
8 damage to a dwelling house, building, structure, or any property  
9 ~~specified in subsections (B) and (C)~~ whether the property of  
10 himself or another, which results, either directly or indirectly, in  
11 the death or serious bodily injury to of a person is guilty of the  
12 felony of arson in the first degree and, upon conviction, must be  
13 imprisoned not less than ~~ten nor more than~~ thirty years.

14 (B) A person who wilfully and maliciously causes an  
15 explosion, sets fire to, burns, or causes to be burned or aids,  
16 counsels, or procures ~~the a~~ burning that results in damage to a  
17 dwelling house, ~~church or place of worship, a public or private~~  
18 ~~school facility, a manufacturing plant or warehouse, a building~~  
19 ~~where business is conducted, an institutional facility, or any~~  
20 ~~structure designed for human occupancy to include local and~~  
21 ~~municipal buildings, building, structure, or any property~~ whether  
22 the property of himself or another, which results, either directly or  
23 indirectly, in serious bodily injury to a person is guilty of the  
24 felony of arson in the second degree and, upon conviction, must be  
25 imprisoned not less than ~~five~~ three nor more than twenty-five  
26 years.

27 (C) A person who wilfully and maliciously:

28 ~~(1)~~ causes an explosion, sets fire to, burns, or causes a  
29 burning which to be burned or aids, counsels, or procures a  
30 burning that results in damage to a dwelling house, building, or  
31 structure other than those specified in subsection (A) or (B), a  
32 railway car, a ship, boat, or other watercraft, an aircraft, an  
33 automobile or other motor vehicle, or personal property; or, or any  
34 property.

35 ~~(2)~~ aids, counsels, or procures a burning that results in  
36 damage to a building or structure other than those specified in  
37 subsection (A) or (B), a railway car, a ship, boat, or other  
38 watercraft, an aircraft, an automobile or other motor vehicle, or  
39 personal property with intent to destroy or damage by explosion or  
40 fire; whether the property of himself or another, which results,  
41 either directly or indirectly, in bodily injury to a person or damage  
42 to the property is guilty of the felony of arson in the third degree

1 and, upon conviction, must be imprisoned ~~not less than one and~~  
2 not more than ~~ten~~ fifteen years.

3 (D) For purposes of this section, 'damage' means an application  
4 of fire or explosive that results in burning, charring, blistering,  
5 scorching, smoking, singeing, discoloring, or changing the fiber or  
6 composition of a building, structure, or any property specified in  
7 this section."

8  
9 SECTION 4. Section 16-3-210 of the 1976 Code is amended to  
10 read:

11  
12 ~~"Section 16-3-210. Any act of violence inflicted by a mob upon~~  
13 ~~the body of another person which results in the death of the person~~  
14 ~~shall constitute the crime of lynching in the first degree and shall~~  
15 ~~be a felony. Any person found guilty of lynching in the first~~  
16 ~~degree shall suffer death unless the jury shall recommend the~~  
17 ~~defendant to the mercy of the court, in which event the defendant~~  
18 ~~shall be confined at hard labor in the State Penitentiary for a term~~  
19 ~~not exceeding forty years or less than five years at the discretion of~~  
20 ~~the presiding judge. (A) For purposes of this section, a 'mob' is~~  
21 defined as the assemblage of two or more persons, without color or  
22 authority of law, for the premeditated purpose and with the  
23 premeditated intent of committing an act of violence upon the  
24 person of another.

25 (B) Any act of violence inflicted by a mob upon the body of  
26 another person, which results in the death of the person, shall  
27 constitute the felony crime of assault and battery by mob in the  
28 first degree and, upon conviction, an offender shall be punished by  
29 imprisonment for not less than thirty years.

30 (C) Any act of violence inflicted by a mob upon the body of  
31 another person, which results in serious bodily injury to the person,  
32 shall constitute the felony crime of assault and battery by mob in  
33 the second degree and, upon conviction, an offender shall be  
34 punished by imprisonment for not less than three years nor more  
35 than twenty-five years.

36 (D) Any act of violence inflicted by a mob upon the body of  
37 another person, which results in bodily injury to the person, shall  
38 constitute the misdemeanor crime of assault and battery by mob in  
39 the third degree and, upon conviction, an offender shall be  
40 punished by imprisonment for not more than one year.

41 (E) When any mob commits an act of violence, the sheriff of  
42 the county wherein the crime occurs and the solicitor of the circuit  
43 where the county is located shall act as speedily as possible to

1 apprehend and identify the members of the mob and bring them to  
2 trial.

3 (F) The solicitor of any circuit has summary power to conduct  
4 any investigation deemed necessary by him in order to apprehend  
5 the members of a mob and may subpoena witnesses and take  
6 testimony under oath.

7 (G) This article shall not be construed to relieve a member of  
8 any such mob from civil liability.”  
9

10 SECTION 5. Sections 16-3-220, 16-3-230, 16-3-240, 16-3-250,  
11 16-3-260, and 16-3-270 of the 1976 Code are repealed.  
12

13 SECTION 6. A. Article 1, Chapter 3, Title 16 of the 1976 Code  
14 is amended by adding:  
15

16 “Section 16-3-29. A person who, with intent to kill, attempts to  
17 kill another person with malice aforethought, either expressed or  
18 implied, commits the offense of attempted murder. A person who  
19 violates this section is guilty of a felony, and, upon conviction,  
20 must be imprisoned for not more than thirty years. A sentence  
21 imposed pursuant to this section may not be suspended nor may  
22 probation be granted.”  
23

24 B. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by  
25 adding:  
26

27 “Section 16-3-600.(A) For purposes of this section:

28 (1) ‘Great bodily injury’ means bodily injury which causes a  
29 substantial risk of death or which causes serious, permanent  
30 disfigurement or protracted loss or impairment of the function of a  
31 bodily member or organ.

32 (2) ‘Moderate bodily injury’ means physical injury requiring  
33 treatment to an organ system of the body other than the skin,  
34 muscles, and connective tissues of the body, except when there is  
35 penetration of the skin, muscles, and connective tissues that require  
36 surgical repair of a complex nature or when treatment of the  
37 injuries requires the use of regional or general anesthesia.

38 (3) ‘Private parts’ means the genital area or buttocks of a  
39 male or female or the breasts of a female.

40 (B)(1) A person commits the offense of assault and battery of a  
41 high and aggravated nature if the person unlawfully injures another  
42 person, and:

43 (a) great bodily injury to another person results; or

1 (b) the act is accomplished by means likely to produce  
2 death or great bodily injury.

3 (2) A person who violates this subsection is guilty of a  
4 felony, and, upon conviction, must be imprisoned for not more  
5 than twenty years.

6 (3) Assault and battery of a high and aggravated nature is a  
7 lesser-included offense of attempted murder, as defined in Section  
8 16-3-29.

9 (C)(1) A person commits the offense of assault and battery in  
10 the first degree if the person unlawfully:

11 (a) injures another person, and the act:

12 (i) involves nonconsensual touching of the private parts  
13 of an adult, either under or above clothing, with lewd and  
14 lascivious intent; or

15 (ii) occurred during the commission of a robbery,  
16 burglary, kidnapping, or theft; or

17 (b) offers or attempts to injure another person with the  
18 present ability to do so, and the act:

19 (i) is accomplished by means likely to produce death or  
20 great bodily injury; or

21 (ii) occurred during the commission of a robbery,  
22 burglary, kidnapping, or theft.

23 (2) A person who violates this subsection is guilty of a  
24 felony, and, upon conviction, must be imprisoned for not more  
25 than ten years.

26 (3) Assault and battery in the first degree is a lesser-included  
27 offense of assault and battery of a high and aggravated nature, as  
28 defined in subsection (B)(1), and attempted murder, as defined in  
29 Section 16-3-29.

30 (D)(1) A person commits the offense of assault and battery in  
31 the second degree if the person unlawfully injures another person,  
32 or offers or attempts to injure another person with the present  
33 ability to do so, and:

34 (a) moderate bodily injury to another person results or  
35 moderate bodily injury to another person could have resulted; or

36 (b) the act involves the nonconsensual touching of the  
37 private parts of an adult, either under or above clothing.

38 (2) A person who violates this subsection is guilty of a  
39 misdemeanor, and, upon conviction, must be fined not more than  
40 two thousand five hundred dollars, or imprisoned for not more than  
41 three years, or both.

42 (3) Assault and battery in the second degree is a  
43 lesser-included offense of assault and battery in the first degree, as

1 defined in subsection (C)(1), assault and battery of a high and  
2 aggravated nature, as defined in subsection (B)(1), and attempted  
3 murder, as defined in Section 16-3-29.

4 (E)(1) A person commits the offense of assault and battery in  
5 the third degree if the person unlawfully injures another person, or  
6 offers or attempts to injure another person with the present ability  
7 to do so.

8 (2) A person who violates this subsection is guilty of a  
9 misdemeanor, and, upon conviction, must be fined not more than  
10 five hundred dollars, or imprisoned for not more than thirty days,  
11 or both.

12 (3) Assault and battery in the third degree is a  
13 lesser-included offense of assault and battery in the second degree,  
14 as defined in subsection (D)(1), assault and battery in the first  
15 degree, as defined in subsection (C)(1), assault and battery of a  
16 high and aggravated nature, as defined in subsection (B)(1), and  
17 attempted murder, as defined in Section 16-3-29.”

18  
19 C. Section 16-3-610 of the 1976 Code is amended to read:

20  
21 “Section 16-3-610. If ~~any~~ a person ~~be~~ is convicted of ~~assault,~~  
22 ~~assault and battery, assault or assault and battery with intent to kill~~  
23 ~~an offense pursuant to Section 16-3-29, 16-3-600, or manslaughter,~~  
24 ~~and it shall appear upon the trial that the assault, assault and~~  
25 ~~battery, assault or assault and battery with intent to kill or~~  
26 ~~manslaughter shall have been~~ the offense is committed with a  
27 deadly weapon of the character as specified in Section 16-23-460  
28 carried or concealed upon the person of the defendant—~~so~~  
29 ~~convicted,~~ the presiding judge shall, in addition to the punishment  
30 provided by law for such ~~assault, assault and battery, assault or~~  
31 ~~assault and battery with intent to kill or manslaughter offense,~~  
32 ~~inflict further punishment upon sentence~~ the person ~~so convicted~~  
33 ~~by confinement in the Penitentiary to imprisonment for the~~  
34 ~~misdemeanor offense~~ for not less than three months nor more than  
35 twelve months, ~~with or without hard labor,~~ or a fine of not less  
36 than two hundred dollars, ~~or both fine and imprisonment, at the~~  
37 ~~discretion of the judge.”~~

38  
39 SECTION 7. A. Sections 16-3-612, 16-3-620, 16-3-630, and  
40 16-3-635 of the 1976 Code are repealed.

41  
42 B. The common law offenses of assault and battery with intent to  
43 kill, assault with intent to kill, assault and battery of a high and

1 aggravated nature, simple assault and battery, assault of a high and  
2 aggravated nature, aggravated assault, and simple assault are  
3 abolished for offenses occurring on or after the effective date of  
4 this act.

5  
6 C. Wherever in the 1976 Code of Laws reference is made to the  
7 common law offense of assault and battery of a high and  
8 aggravated nature, it means assault and battery with intent to kill,  
9 as contained in repealed Section 16-3-620, and, except for  
10 references in Section 16-1-60 and Section 17-25-45, wherever in  
11 the 1976 Code reference is made to assault and battery with intent  
12 to kill, it means attempted murder as defined in Section 16-3-29.

13  
14 SECTION 8. Section 22-3-560 of the 1976 Code, as last amended  
15 by Act 346 of 2008, is further amended to read:

16  
17 “Section 22-3-560. ~~(A)~~ Magistrates may punish by fine not  
18 exceeding five hundred dollars or imprisonment for a term not  
19 exceeding thirty days, or both, ~~all assaults and batteries and other~~  
20 ~~breaches of the peace when the offense is neither an assault and~~  
21 ~~battery against school personnel pursuant to Section 16-3-612 nor~~  
22 ~~an assault and battery of a high and aggravated nature requiring, in~~  
23 ~~their judgment or by law, greater punishment.~~

24 ~~(B) Magistrates may punish by fine not exceeding one thousand~~  
25 ~~dollars or imprisonment for a term not exceeding sixty days, or~~  
26 ~~both, all assaults and batteries against sports officials and coaches~~  
27 ~~when, in committing an assault and battery, the offender knows the~~  
28 ~~individual assaulted to be a sports official or coach at any level of~~  
29 ~~competition and the act causing the assault and battery to the sports~~  
30 ~~official or coach occurred within an athletic facility or an indoor or~~  
31 ~~outdoor playing field or within the immediate vicinity of the~~  
32 ~~athletic facility or an indoor or outdoor playing field at which the~~  
33 ~~sports official or coach was an active participant in the athletic~~  
34 ~~contests held at the athletic facility. For the purposes of this~~  
35 ~~subsection, “sports official” means a person at an athletic contest~~  
36 ~~who enforces the rules of the contest, such as an umpire, referee,~~  
37 ~~scorekeeper, and “coach” means a person recognized as a coach by~~  
38 ~~the sanctioning authority that conducted the athletic contest.”~~

39  
40 SECTION 9. Section 17-15-30 of the 1976 Code, as last amended  
41 by Act 280 of 2008, is further amended to read:



1 “Section 17-15-30. (A) In determining conditions of release  
2 that will reasonably assure appearance, or if release would  
3 constitute an unreasonable danger to the community, the court  
4 may, on the basis of available information, consider the nature and  
5 circumstances of the offense charged and the accused’s:

- 6 (1) family ties;
- 7 (2) employment;
- 8 (3) financial resources;
- 9 (4) character and mental condition;
- 10 (5) length of residence in the community;
- 11 (6) record of convictions; and
- 12 (7) record of flight to avoid prosecution or failure to appear

13 at other court proceedings.

14 (B) The court shall consider:

- 15 (1) the accused’s criminal record;
- 16 (2) any charges pending against the accused at the time  
17 release is requested;

18 ~~(23)~~ all incident reports generated as a result of the offense  
19 charged, if available; and

20 ~~(34)~~ whether the accused is an alien unlawfully present in the  
21 United States, and poses a substantial flight risk due to this status.

22 (C) Prior to or at the time of the hearing, the law enforcement  
23 officer, local detention facility officer, or local jail officer, as  
24 applicable, attending the hearing shall provide the court with the  
25 following information if available:

- 26 (1) the accused’s criminal record;
- 27 (2) any charges pending against the accused at the time  
28 release is requested;

29 (3) all incident reports generated as a result of the offense  
30 charged; and

31 (4) any other information that will assist the court in  
32 determining conditions of release.

33 (D) The law enforcement officer, local detention facility  
34 officer, or local jail officer, as applicable, shall inform the court if  
35 any of the information required in subsection (C) is not available at  
36 the time of the hearing and the reason the information is not  
37 available. Failure on the part of the law enforcement officer, local  
38 detention facility officer, or local jail officer, as applicable, to  
39 provide the court with the information required in subsection (C)  
40 does not constitute grounds for the postponement or delay of the  
41 person’s hearing.

42 (E) A court hearing this matter has contempt powers to enforce  
43 these provisions.”

1  
2 SECTION 10. Section 22-5-510 of the 1976 Code is amended to  
3 read:

4  
5 “Section 22-5-510. (A) Magistrates may admit to bail a person  
6 charged with an offense, the punishment of which is not death or  
7 imprisonment for life; provided, however, with respect to violent  
8 offenses as defined by the General Assembly pursuant to Section  
9 15, Article I of the Constitution of South Carolina, magistrates  
10 may deny bail giving due weight to the evidence and to the nature  
11 and circumstances of the event, including, but not limited to, any  
12 charges pending against the person requesting bail. ‘Violent  
13 offenses’ as used in this section means the offenses contained in  
14 Section 16-1-60. If a person under lawful arrest on a charge not  
15 bailable is brought before a magistrate, the magistrate shall commit  
16 the person to jail. If the offense charged is bailable, the magistrate  
17 shall take recognizance with sufficient surety, if it is offered, in  
18 default whereof the person must be incarcerated.

19 (B) A person charged with a bailable offense must have a bond  
20 hearing within twenty-four hours of his arrest and must be released  
21 within a reasonable time, not to exceed four hours, after the bond  
22 is delivered to the incarcerating facility.

23 (C) Prior to or at the time of the bond hearing, the law  
24 enforcement officer, local detention facility officer, or local jail  
25 officer, as applicable, attending the hearing shall provide the court  
26 with the following information if available:

- 27 (1) the person’s criminal record;  
28 (2) any charges pending against the person;  
29 (3) all incident reports generated as a result of the offense  
30 charged; and  
31 (4) any other information that will assist the court in  
32 determining bail.

33 (D) The law enforcement officer, local detention facility  
34 officer, or local jail officer, as applicable, shall inform the court if  
35 any of the information required in subsection (C) is not available at  
36 the time of the bond hearing and the reason the information is not  
37 available. Failure on the part of the law enforcement officer, local  
38 detention facility officer, or local jail officer, as applicable, to  
39 provide the court with the information required in subsection (C)  
40 does not constitute grounds for the postponement or delay of the  
41 person’s bond hearing.

42 (E) A court hearing this matter has contempt powers to enforce  
43 these provisions.”

1  
2 SECTION 11. Section 16-11-312(C) of the 1976 Code is  
3 amended to read:

4  
5 “(C)(1)Burglary in the second degree pursuant to subsection (A)  
6 is a felony punishable by imprisonment for not more than ten  
7 years.

8 (2) Burglary in the second degree pursuant to subsection (B)  
9 is a felony punishable by imprisonment for not more than fifteen  
10 years, provided, that no person convicted of burglary in the second  
11 degree pursuant to subsection (B) shall be eligible for parole  
12 except upon service of not less than one-third of the term of the  
13 sentence.”

14  
15 SECTION 12. Section 16-17-420 of the 1976 Code is amended  
16 to read:

17  
18 “Section 16-17-420. (A) It shall be unlawful:

19 (1) For any person wilfully or unnecessarily (a) to interfere  
20 with or to disturb in any way or in any place the students or  
21 teachers of any school or college in this State, (b) to loiter about  
22 such school or college premises or (c) to act in an obnoxious  
23 manner thereon; or

24 (2) For any person to (a) enter upon any such school or  
25 college premises or (b) loiter around the premises, except on  
26 business, without the permission of the principal or president in  
27 charge.

28 (B) Any person violating any of the provisions of this section  
29 shall be guilty of a misdemeanor and, on conviction thereof, shall  
30 pay a fine of not ~~less than one hundred dollars nor~~ more than one  
31 thousand dollars or be imprisoned in the county jail for not ~~less~~  
32 ~~than thirty days nor~~ more than ninety days.

33 (C) The summary courts are vested with jurisdiction to hear and  
34 dispose of cases involving a violation of this section. If the person  
35 is a child as defined by Section 63-19-20, jurisdiction must remain  
36 vested in the Family Court.”

37  
38 SECTION 13. Article 1, Chapter 25, Title 17 of the 1976 Code  
39 is amended by adding:

40  
41 “Section 17-25-65. (A) Upon the State’s motion made within  
42 one year of sentencing, the court may reduce a sentence if the  
43 defendant, after sentencing, provided:

1 (1) substantial assistance in investigating or prosecuting  
2 another person; or

3 (2) aid to a Department of Corrections employee or  
4 volunteer who was in danger of being seriously injured or killed.

5 (B) Upon the State's motion made more than one year after  
6 sentencing, the court may reduce a sentence if the defendant's  
7 substantial assistance involved:

8 (1) information not known to the defendant until one year or  
9 more after sentencing;

10 (2) information provided by the defendant to the State within  
11 one year of sentencing, but which did not become useful to the  
12 State until more than one year after sentencing;

13 (3) information, the usefulness of which could not  
14 reasonably have been anticipated by the defendant until more than  
15 one year after sentencing, and which was promptly provided to the  
16 State after its usefulness was reasonably apparent to the defendant;  
17 or

18 (4) aid to a Department of Corrections employee or  
19 volunteer who was in danger of being seriously injured or killed.

20 (C) A motion made pursuant to this provision shall be filed by  
21 that circuit solicitor in the county where the defendant's case arose.  
22 The State shall send a copy to the chief judge of the circuit within  
23 five days of filing. The chief judge or a circuit court judge  
24 currently assigned to that county shall have jurisdiction to hear and  
25 resolve the motion. Jurisdiction to resolve the motion is not  
26 limited to the original sentencing judge."

27  
28 SECTION 14. A. Section 56-1-440 of the 1976 Code is  
29 amended to read:

30  
31 "Section 56-1-440. (A) A person who drives a motor vehicle on  
32 a public highway of this State without a driver's license in  
33 violation of Section 56-1-20 is guilty of a misdemeanor and, upon  
34 conviction of a first offense, must be fined not less than fifty  
35 dollars nor more than one hundred dollars or imprisoned for thirty  
36 days and, upon conviction of a second offense, be fined five  
37 hundred dollars or imprisoned for forty-five days, or both, and for  
38 a third and subsequent offense must be imprisoned for not less than  
39 forty-five days nor more than six months. However, a charge of  
40 driving a motor vehicle without a driver's license must be  
41 dismissed if the person provides proof of being a licensed driver at  
42 the time of the violation to the court on or before the date this  
43 matter is set to be disposed of by the court.

1     (B) The summary courts are vested with jurisdiction to hear and  
2     dispose of cases involving a violation of this section.”

3  
4     B. Section 56-3-1970 of the 1976 Code, as last amended by Act  
5     24 of 2009, is further amended to read:

6  
7     “Section 56-3-1970.(A) It is unlawful to park any vehicle in a  
8     parking place clearly designated for handicapped persons unless  
9     the vehicle bears the distinguishing license plate or placard  
10    provided in Section 56-3-1960.

11    (B) It is unlawful for any person who is not handicapped or  
12    who is not transporting a handicapped person to exercise the  
13    parking privileges granted handicapped persons pursuant to  
14    Sections 56-3-1910, 56-3-1960, and 56-3-1965.

15    (C) A person violating the provisions of this section is guilty of  
16    a misdemeanor and, upon conviction, must be fined not less than  
17    five hundred dollars nor more than one thousand dollars or  
18    imprisoned for not more than thirty days for each offense.

19    (D) The summary courts are vested with jurisdiction to hear and  
20    dispose of cases involving a violation of this section.”

21  
22    SECTION 15. A. Article 1, Chapter 1, Title 56 of the 1976  
23    Code is amended by adding:

24  
25    “Section 56-1-395.(A) The Department of Motor Vehicles  
26    shall establish a driver’s license reinstatement fee payment  
27    program. A person who is a South Carolina resident, is eighteen  
28    years of age or older, and has had his driver’s license suspended  
29    may apply to the Department of Motor Vehicles to obtain a license  
30    valid for no more than six months to allow time for payment of  
31    reinstatement fees. If the person has served all of his suspensions,  
32    has met all other conditions for reinstatement, and owes three  
33    hundred dollars or more of South Carolina reinstatement fees only  
34    for suspensions that are listed in subsection (E), the Department of  
35    Motor Vehicles may issue a six-month license upon payment of a  
36    thirty-five dollar administrative fee and payment of fifteen percent  
37    of the reinstatement fees owed.

38    (B) During the period of the six-month license, the person must  
39    make periodic payments of the reinstatement fees owed. Monies  
40    paid shall be applied to suspensions in chronological order, with  
41    the oldest fees being paid first.

1 (C) When all fees are paid, and the department records  
2 demonstrate that the person has no other suspensions, the person is  
3 eligible to renew his regular driver's license.

4 (D) If all fees are not paid by the end of the six-month period,  
5 existing suspensions shall be reactivated.

6 (E) This subsection applies only to a person whose driver's  
7 license has been suspended pursuant to Sections 34-11-70,  
8 56-1-120, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290,  
9 56-1-460(A)(1), 56-2-2740, 56-9-351, 56-9-354, 56-9-357,  
10 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240,  
11 56-10-270, 56-10-520, 56-10-530, and 56-25-20.

12 (F) No person may participate in the payment program more  
13 than one time in any three-year period.

14 (G) The payment program administrative fee of thirty-five  
15 dollars must be placed by the Comptroller General into a special  
16 restricted account to be used by the Department of Motor Vehicles  
17 to defray its expenses.”

18  
19 B. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by  
20 adding:

21  
22 “Section 56-1-396. (A) The Department of Motor Vehicles  
23 shall establish a driver's license suspension amnesty period.

24 (B) The amnesty period must be for one week on an annual  
25 basis at the department's discretion.

26 (C) During the amnesty period, a person whose driver's license  
27 is suspended prior to the amnesty period may apply to the  
28 department to have qualifying suspensions cleared.

29 (D) If the person has met all conditions for reinstatement other  
30 than service of the suspension period, including payment of all  
31 applicable fees, the department must reinstate the person's driver's  
32 license.

33 (E) If the qualifying suspensions are cleared, but  
34 non-qualifying suspensions remain to be served, the department  
35 must recalculate the remaining suspension start dates to begin as  
36 soon as feasible.

37 (F) Qualifying suspensions include, and are limited to,  
38 suspensions pursuant to Sections 34-11-70, 56-1-120, 56-1-170,  
39 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1),  
40 56-2-2740, 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490,  
41 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-270, 56-10-520,  
42 56-10-530, and 56-25-20.”

43

1 SECTION 16. A. Section 16-11-510(B) of the 1976 Code is  
2 amended to read:

3  
4 “(B) A person who violates the provisions of this section is  
5 guilty of a:

6 (1) felony and, upon conviction, must be fined in the  
7 discretion of the court or imprisoned not more than ten years, or  
8 both, if the injury to the property or the property loss is worth ~~five~~  
9 ten thousand dollars or more;

10 (2) felony and, upon conviction, must be fined in the  
11 discretion of the court or imprisoned not more than five years, or  
12 both, if the injury to the property or the property loss is worth more  
13 than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand  
14 dollars;

15 (3) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
16 municipal court, notwithstanding the provisions of Sections  
17 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the  
18 property or the property loss is worth ~~one~~ two thousand dollars or  
19 less. Upon conviction, the person must be fined not more than one  
20 thousand dollars, or imprisoned, ~~or both, as permitted by law and~~  
21 ~~without presentment or indictment by the grand jury~~ not more than  
22 thirty days, or both.”

23  
24 B. Section 16-11-520(B) of the 1976 Code is amended to read:

25  
26 “(B) A person who violates the provisions of this section is  
27 guilty of a:

28 (1) felony and, upon conviction, must be fined in the  
29 discretion of the court or imprisoned not more than ten years, or  
30 both, if the injury to the property or the property loss is worth ~~five~~  
31 ten thousand dollars or more;

32 (2) felony and, upon conviction, must be fined in the  
33 discretion of the court or imprisoned not more than five years, or  
34 both, if the injury to the property or the property loss is worth more  
35 than ~~one~~ two thousand dollars but less than ~~five~~ ten thousand  
36 dollars;

37 (3) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
38 municipal court, notwithstanding the provisions of Sections  
39 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the  
40 property or the property loss is worth ~~one~~ two thousand dollars or  
41 less. Upon conviction, the person must be fined not more than one  
42 thousand dollars, or imprisoned, ~~or both, as permitted by law and~~

1 ~~without presentment or indictment of the grand jury not more than~~  
2 ~~thirty days, or both.~~”

3  
4 C. Section 16-11-523(C) of the 1976 Code, as added by Act 260  
5 of 2008, is amended to read:

6  
7 “(C) A person who violates the provisions of this section is  
8 guilty of a:

9 (1) misdemeanor under the jurisdiction magistrates or  
10 municipal court, notwithstanding the provisions of Sections  
11 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
12 conviction, must be fined not more than ~~five hundred~~ one thousand  
13 dollars or imprisoned not more than thirty days, or both, if the  
14 direct injury to the property, the amount of loss in value to the  
15 property, the amount of repairs necessary to return the property to  
16 its condition before the act, or the property loss, including fixtures  
17 or improvements, is ~~one two~~ one thousand dollars or less;

18 (2) felony and, upon conviction, must be fined in the  
19 discretion of the court or imprisoned not more than five years, or  
20 both, if the direct injury to the property, the amount of loss in value  
21 to the property, the amount of repairs necessary to return the  
22 property to its condition before the act, or the property loss,  
23 including fixtures or improvements, is more than ~~one two~~ five ten thousand  
24 dollars but less than ~~five ten~~ five ten thousand dollars; or

25 (3) felony and, upon conviction, must be fined in the  
26 discretion of the court or imprisoned not more than ten years, or  
27 both, if the direct injury to the property, the amount of loss in value  
28 to the property, the amount of repairs necessary to return the  
29 property to its condition before the act, or the property loss,  
30 including fixtures or improvements, is ~~five ten~~ five ten thousand dollars or  
31 more.”

32  
33 D. Section 16-13-10(B) of the 1976 Code is amended to read:

34  
35 “(B) A person who violates the provisions of this section is  
36 guilty of a:

37 (1) felony and, upon conviction, must be fined in the  
38 discretion of the court or imprisoned not more than ten years, or  
39 both, if the amount of the forgery is ~~five ten~~ five ten thousand dollars or  
40 more;

41 (2) felony and, upon conviction, must be fined in the  
42 discretion of the court or imprisoned not more than five years, or



1 both, if the amount of the forgery is less than ~~five~~ ten thousand  
2 dollars.

3 (C) If the forgery does not involve a dollar amount, the person  
4 is guilty of a misdemeanor under the jurisdiction of the magistrates  
5 or municipal court, notwithstanding the provisions of Sections  
6 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
7 conviction, must be fined in the discretion of the court or  
8 imprisoned not more than three years, or both.”

9

10 E. Section 16-13-30 of the 1976 Code is amended to read:

11

12 “Section 16-13-30. (A) Simple larceny of any article of goods,  
13 choses in action, bank bills, bills receivable, chattels, or other  
14 article of personalty of which by law larceny may be committed, or  
15 of any fixture, part, or product of the soil severed from the soil by  
16 an unlawful act, or has a value of ~~one~~ two thousand dollars or less,  
17 is petit larceny, a misdemeanor, triable in the ~~magistrate’s~~  
18 magistrates court or municipal court, notwithstanding the  
19 provisions of Sections 22-3-540, 22-3-545, 22-3-550, and  
20 14-25-65. Upon conviction, the person must be fined not more  
21 than one thousand dollars, or imprisoned ~~not more than~~ is  
22 permitted by law without presentment or indictment by the grand  
23 jury not more than thirty days.

24 (B) Larceny of goods, chattels, instruments, or other personalty  
25 valued in excess of ~~one~~ two thousand dollars is grand larceny.  
26 Upon conviction, the person is guilty of a felony and must be fined  
27 in the discretion of the court or imprisoned not more than:

28 (1) five years if the value of the personalty is more than ~~one~~  
29 two thousand dollars but less than ~~five~~ ten thousand dollars;

30 (2) ten years if the value of the personalty is ~~five~~ ten  
31 thousand dollars or more.”

32

33 F. Section 16-13-40 of the 1976 Code is amended to read:

34

35 “Section 16-13-40. (A) It is unlawful for a person to steal or  
36 take by robbery a bond, warrant, bill, or promissory note for the  
37 payment or securing the payment of money belonging to another.

38 (B) A person who violates the provisions of this section is  
39 guilty of a:

40 (1) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
41 municipal court, notwithstanding the provisions of Sections  
42 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the instrument  
43 stolen or taken has a value of ~~one~~ two thousand dollars or less.

1 Upon conviction, the person must be fined not more than one  
2 thousand dollars, or imprisoned ~~not more than is permitted by law~~  
3 ~~without presentment or indictment by the grand jury~~ not more than  
4 thirty days;

5 (2) felony and, upon conviction, must be fined in the  
6 discretion of the court or imprisoned not more than five years if the  
7 value of the instrument stolen or taken is more than ~~one~~ two  
8 thousand dollars but less than ~~five~~ ten thousand dollars;

9 (3) felony and, upon conviction, must be fined in the  
10 discretion of the court or imprisoned not more than ten years if the  
11 instrument stolen or taken has a value of ~~five~~ ten thousand dollars  
12 or more.”

13  
14 G. Section 16-13-50 of the 1976 Code is amended to read:

15  
16 “Section 16-13-50. (A) A person convicted of the larceny of a  
17 horse, mule, cow, hog, or any other livestock is guilty of a:

18 (1) felony and, upon conviction, must be imprisoned not  
19 more than ten years or fined not more than twenty-five hundred  
20 dollars, or both, if the value of the livestock is ~~five~~ ten thousand  
21 dollars or more;

22 (2) felony and, upon conviction, must be imprisoned not  
23 more than five years or fined not more than five hundred dollars,  
24 or both, if the value of the livestock is more than ~~one~~ two thousand  
25 dollars but less than ~~five~~ ten thousand dollars;

26 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
27 municipal court, notwithstanding the provisions of Sections  
28 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
29 livestock is ~~one~~ two thousand dollars or less. Upon conviction, the  
30 person must be fined not more than one thousand dollars, or  
31 imprisoned ~~not more than is permitted by law without presentment~~  
32 ~~or indictment by the grand jury~~ not more than thirty days, or both.

33 (B) A motor vehicle or other chattel used by or found in  
34 possession of a person engaged in the commission of a crime under  
35 this section is subject to confiscation and must be confiscated and  
36 sold under the provisions of Section 27-21-10.”

37  
38 H. Section 16-13-66 of the 1976 Code is amended to read:

39  
40 “Section 16-13-66. (A) A person violating the provision of  
41 Section 16-13-65 is guilty of a misdemeanor and, upon conviction:

42 (1) for the first offense, must be fined an amount not to  
43 exceed ~~five hundred~~ one thousand dollars or imprisoned for a term

1 not to exceed one year, or both, and shall pay restitution to the  
2 culturist an amount determined by the court. Notwithstanding the  
3 provisions of Sections 22-3-540, 22-3-545, 22-3-550, and  
4 14-25-65, an offense punishable under this subitem may be tried in  
5 magistrate's magistrates or municipal court.

6 (2) for a second offense, must be fined an amount not to  
7 exceed two thousand dollars or imprisoned for a term not less than  
8 two months and thirty days community service nor more than one  
9 year, or both, and shall pay restitution to the culturist an amount  
10 determined by the court. Furthermore, all equipment, including,  
11 but not limited to, vehicles, fishing devices, coolers and nets must  
12 be seized and forfeited to the court.

13 (3) for a third or subsequent offense, must be fined an  
14 amount not to exceed five thousand dollars or imprisoned for a  
15 term not less than six months nor more than two years, or both, and  
16 shall pay restitution to the culturist an amount determined by the  
17 court. Furthermore, all equipment, including, but not limited to,  
18 vehicles, fishing devices, coolers, and nets must be seized and  
19 forfeited to the court.

20 ~~(B) Provided further, that if~~ If the value of such property stolen  
21 or damaged is less than ~~one~~ two hundred dollars, the case shall be  
22 tried in ~~magistrate's~~ magistrates court or municipal court,  
23 notwithstanding the provisions of Sections 22-3-540, 22-3-545,  
24 22-3-550, and 14-25-65, and the punishment shall be ~~no more than~~  
25 is permitted by law without presentment or indictment by a grand  
26 jury a fine of not more than one thousand dollars or imprisonment  
27 for not more than thirty days, or both."

28  
29 I. Section 16-13-70(B) of the 1976 Code is amended to read:

30  
31 "(B) A person who violates the provisions of this section is  
32 guilty of a:

33 (1) felony and, upon conviction, must be fined in the  
34 discretion of the court or imprisoned not more than ten years if the  
35 value of the property is ~~five~~ ten thousand dollars or more;

36 (2) felony and, upon conviction, must be fined in the  
37 discretion of the court or imprisoned not more than five years if the  
38 value of the property is more than ~~one~~ two thousand dollars but  
39 less than ~~five~~ ten thousand dollars;

40 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
41 municipal court, notwithstanding the provisions of Sections  
42 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
43 property is ~~one~~ two thousand dollars or less. Upon conviction, the

1 person must be fined not more than one thousand dollars or  
2 imprisoned ~~not more than is permitted by law without presentment~~  
3 ~~or indictment by the grand jury not more than thirty days.~~

4 (C) In addition to the punishment specified in this section, the  
5 person must make good to the person injured all damages  
6 sustained and, if the matter be a trespass only, the person  
7 committing the offense shall make good to the person injured all  
8 damages that accrued.”

9  
10 J. Section 16-13-80 of the 1976 Code is amended to read:

11  
12 “Section 16-13-80. The larceny of a bicycle is a misdemeanor  
13 and, upon conviction, the person must be punishable at the  
14 discretion of the court. When the value of the bicycle is less than  
15 ~~one two~~ thousand dollars, the case is triable in ~~magistrate’s~~  
16 magistrates court or municipal court, notwithstanding the  
17 provisions of Sections 22-3-540, 22-3-545, 22-3-550, and  
18 14-25-65, and, upon conviction, the person must be fined not more  
19 than ~~five hundred~~ one thousand dollars or imprisoned not more  
20 than thirty days.”

21  
22 K. Section 16-13-110(B) of the 1976 Code is amended to read:

23  
24 “(B) A person who violates the provisions of this section is  
25 guilty of a:

26 (1) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
27 municipal court, notwithstanding the provisions of Sections  
28 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
29 conviction, must be fined not more than ~~five hundred~~ one thousand  
30 dollars or imprisoned not more than thirty days if the value of the  
31 shoplifted merchandise is ~~one two~~ thousand dollars or less;

32 (2) felony and, upon conviction, must be fined not more than  
33 one thousand dollars or imprisoned not more than five years, or  
34 both, if the value of the shoplifted merchandise is more than ~~one~~  
35 two thousand dollars but less than ~~five~~ ten thousand dollars;

36 (3) felony and, upon conviction, must be imprisoned not  
37 more than ten years if the value of the shoplifted merchandise is  
38 ~~five~~ ten thousand dollars or more.”

39  
40 L. Section 16-13-180 of the 1976 Code is amended to read:

41  
42 “Section 16-13-180. (A) It is unlawful for a person to buy,  
43 receive, or possess stolen goods, chattels, or other property if the

1 person knows or has reason to believe the goods, chattels, or  
2 property is stolen. A person is guilty of this offense whether or not  
3 anyone is convicted of the theft of the property.

4 (B) A person who violates the provisions of this section is  
5 guilty of a:

6 (1) misdemeanor triable in ~~magistrate's~~ magistrates court or  
7 municipal court, notwithstanding the provisions of Sections  
8 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
9 property is ~~one~~ two thousand dollars or less. Upon conviction, the  
10 person must be fined not more than one thousand dollars, or  
11 imprisoned ~~not more than is permitted by law without presentment~~  
12 ~~or indictment by the grand jury~~ not more than thirty days;

13 (2) felony and, upon conviction, must be fined not less than  
14 one thousand dollars or imprisoned not more than five years if the  
15 value of the property is more than ~~one~~ two thousand dollars but  
16 less than ~~five~~ ten thousand dollars;

17 (3) felony and, upon conviction, must be fined not less than  
18 two thousand dollars or imprisoned not more than ten years if the  
19 value of the property is ~~five~~ ten thousand dollars or more.

20 (C) For the purposes of this section, the receipt of multiple  
21 items in a single transaction or event constitutes a single offense.”

22  
23 M. Section 16-13-210 of the 1976 Code is amended to read:

24  
25 “Section 16-13-210. (A) It is unlawful for an officer or other  
26 person charged with the safekeeping, transfer, and disbursement of  
27 public funds to embezzle these funds.

28 (B) A person who violates the provisions of this section is  
29 guilty of a:

30 (1) felony and, upon conviction, must be fined in the  
31 discretion of the court to be proportioned to the amount of the  
32 embezzlement and imprisoned not more than ten years if the  
33 amount of the embezzled funds is ~~five~~ ten thousand dollars or  
34 more;

35 (2) felony and, upon conviction, must be fined in the  
36 discretion of the court to be proportioned to the amount of  
37 embezzlement and imprisoned not more than five years if the  
38 amount of the embezzled funds is less than ~~five~~ ten thousand  
39 dollars.

40 (C) The person convicted of a felony is disqualified from  
41 holding any office of honor or emolument in this State; but the  
42 General Assembly, by a two-thirds vote, may remove this

1 disability upon payment in full of the principal and interest of the  
2 sum embezzled.”

3  
4 N. Section 16-13-230(B) of the 1976 Code is amended to read:

5  
6 “(B) A person who violates the provisions of this section is  
7 guilty of a:

8 (1) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
9 municipal court, notwithstanding the provisions of Sections  
10 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount is ~~one~~  
11 two thousand dollars or less. Upon conviction, the person must be  
12 fined not more than one thousand dollars, or imprisoned ~~not more~~  
13 ~~than is permitted by law without presentment or indictment by the~~  
14 grand jury not more than thirty days;

15 (2) felony and, upon conviction, must be fined in the  
16 discretion of the court or imprisoned not more than five years if the  
17 amount is more than ~~one~~ two thousand dollars but less than ~~five~~  
18 ten thousand dollars;

19 (3) felony and, upon conviction, must be fined in the  
20 discretion of the court or imprisoned not more than ten years if the  
21 amount is ~~five~~ ten thousand dollars or more.”

22  
23 O. Section 16-13-240 of the 1976 Code is amended to read:

24  
25 “Section 16-13-240. A person who by false pretense or  
26 representation obtains the signature of a person to a written  
27 instrument or obtains from another person any chattel, money,  
28 valuable security, or other property, real or personal, with intent to  
29 cheat and defraud a person of that property is guilty of a:

30 (1) felony and, upon conviction, must be fined not more than  
31 five hundred dollars and imprisoned not more than ten years if the  
32 value of the property is ~~five~~ ten thousand dollars or more;

33 (2) felony and, upon conviction, must be fined in the discretion  
34 of the court or imprisoned not more than five years if the value of  
35 the property is more than ~~one~~ two thousand dollars but less than  
36 ~~five~~ ten thousand dollars;

37 (3) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
38 municipal court, notwithstanding the provisions of Sections  
39 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
40 property is ~~one~~ two thousand dollars or less. Upon conviction, the  
41 person must be fined not more than one thousand dollars, or  
42 imprisoned ~~not more than is permitted by law without presentment~~  
43 ~~or indictment of the grand jury~~ not more than thirty days.”

1  
2 P. Section 16-13-260 of the 1976 Code is amended to read:

3  
4 “Section 16-13-260. A person who falsely and deceitfully  
5 obtains or gets into his hands or possession any money, goods,  
6 chattels, jewels, or other things of another person by color and  
7 means of any false token or counterfeit letter made in another  
8 person’s name is guilty of a:

9 (1) felony and, upon conviction, must be fined in the discretion  
10 of the court or imprisoned not more than ten years, or both, if the  
11 value of the property is ~~five~~ ten thousand dollars or more;

12 (2) felony and, upon conviction, must be fined in the discretion  
13 of the court or imprisoned not more than five years, or both, if the  
14 value of the property is more than ~~one~~ two thousand dollars but  
15 less than ~~five~~ ten thousand dollars;

16 (3) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
17 municipal court, notwithstanding the provisions of Sections  
18 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
19 property is ~~one~~ two thousand dollars or less. Upon conviction, the  
20 person must be fined not more than one thousand dollars, or  
21 imprisoned ~~not more than is permitted by law without presentment~~  
22 ~~or indictment by the grand jury~~ not more than thirty days, or both.”  
23

24 Q. Section 16-13-290 of the 1976 Code is amended to read:

25  
26 “Section 16-13-290. It is unlawful for a person, with intent  
27 to defraud either the State, a county, or municipal government or  
28 any person, to act as an officer and demand, obtain, or receive  
29 from a person or an officer of the State, county, or municipal  
30 government any money, paper, document, or other valuable things.  
31 A person who violates the provisions of this section is guilty of a:

32 (1) felony and, upon conviction, must be fined in the discretion  
33 of the court or imprisoned not more than ten years, or both, if the  
34 property or thing obtained has a value of more than ~~two~~ four  
35 hundred dollars.

36 (2) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
37 municipal court, notwithstanding the provisions of Sections  
38 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
39 conviction, must be fined not more than ~~one~~ two hundred dollars  
40 or imprisoned not more than thirty days if the property or thing  
41 obtained has a value of ~~two~~ four hundred dollars or less.”  
42

43 R. Section 16-13-331 of the 1976 Code is amended to read:

1  
2 “Section 16-13-331. Whoever, without authority, with the  
3 intention of depriving the library or archive of the ownership of  
4 such property, ~~willfully~~ wilfully conceals a book or other library or  
5 archive property, while still on the premises of such library or  
6 archive, or ~~willfully~~ wilfully or without authority removes any  
7 book or other property from any library or archive or collection  
8 shall be deemed guilty of a misdemeanor under the jurisdiction of  
9 the magistrates or municipal court, notwithstanding the provisions  
10 of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and upon  
11 conviction shall be punished in accordance with the following: ~~(1)~~  
12 by a fine of not more than six hundred dollars or imprisonment for  
13 not more than six months; provided, however, that if the value of  
14 the library or archive property is less than ~~fifty~~ one hundred  
15 dollars, the punishment shall be a fine of not more than ~~one~~ two  
16 hundred dollars or imprisonment for not more than thirty days.  
17 Proof of the ~~willful~~ wilful concealment of any book or other library  
18 or archive property while still on the premises of such library or  
19 archive shall be prima facie evidence of intent to commit larceny  
20 thereof.”

21  
22 S. Section 16-13-420 of the 1976 Code is amended to read:

23  
24 “Section 16-13-420. (A) A person having any ~~motor vehicle,~~  
25 ~~trailer, appliance, equipment, tool, clothing, or formal wear~~  
26 property in his possession or under his control by virtue of a lease  
27 or rental agreement is guilty of larceny if he:

28 (1) wilfully and fraudulently fails to return the ~~motor~~  
29 ~~vehicle, trailer, appliance, equipment, tool, clothing, or formal~~  
30 ~~wear property~~ within seventy-two hours after the lease or rental  
31 agreement has expired;

32 (2) fraudulently secretes or appropriates the property to any  
33 use or purpose not within the due and lawful execution of ~~his~~ the  
34 lease or rental agreement.

35 The provisions of this section do not apply to lease-purchase  
36 agreements or conditional sales type contracts.

37 (B) A person who violates the provisions of this section is  
38 guilty of a:

39 (1) felony and, upon conviction, must be fined in the  
40 discretion of the court or imprisoned not more than ten years, or  
41 both, if the value of the rented or leased item is ~~five~~ ten thousand  
42 dollars or more;



1 (2) felony and, upon conviction, must be fined in the  
2 discretion of the court or imprisoned not more than five years, or  
3 both, if the value of the rented or leased item is more than ~~one~~ two  
4 thousand dollars but less than ~~five~~ ten thousand dollars;

5 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
6 municipal court, notwithstanding the provisions of Sections  
7 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
8 rented or leased item is ~~one~~ two thousand dollars or less. Upon  
9 conviction, the person must be fined not more than one thousand  
10 dollars or imprisoned not more than thirty days ~~is permitted by law~~  
11 ~~without presentment or indictment by the grand jury, or both."~~

12  
13 T. Section 16-13-430(C) of the 1976 Code is amended to read:

14  
15 "(C) A person who violates the provisions of this section is  
16 guilty of a:

17 (1) felony if the amount of food stamps fraudulently  
18 acquired or used is of a value of ~~five~~ ten thousand dollars or more.  
19 Upon conviction, the person must be fined not more than five  
20 thousand dollars or imprisoned not more than ten years, or both;

21 (2) felony if the amount of food stamps fraudulently  
22 acquired or used is of a value of more than ~~one~~ two thousand  
23 dollars but less than ~~five~~ ten thousand dollars. Upon conviction,  
24 the person must be fined not more than five hundred dollars or  
25 imprisoned not more than five years, or both;

26 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
27 municipal court, notwithstanding the provisions of Sections  
28 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of food  
29 stamps fraudulently acquired or used is of a value of ~~one~~ two  
30 thousand dollars or less. Upon conviction, the person must be  
31 fined not more than one thousand dollars, or imprisoned not more  
32 than thirty days, or both ~~is permitted by law without presentment~~  
33 ~~or indictment by the grand jury."~~

34  
35 U. Section 16-14-80(B) of the 1976 Code is amended to read:

36  
37 "(B) A person who violates the provisions of this section is  
38 guilty of a:

39 (1) misdemeanor under the jurisdiction of the magistrates or  
40 municipal court, notwithstanding the provisions of Sections  
41 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
42 conviction, must be sentenced pursuant to Section 16-14-100(a) if  
43 the value of the money, goods, services, and anything else of

1 value, is ~~five hundred~~ one thousand dollars or less in any  
2 six-month period;

3 (2) felony and, upon conviction, must be sentenced pursuant  
4 to Section 16-14-100(b) if the value of the money, goods, services,  
5 or anything of value is more than ~~five hundred~~ one thousand  
6 dollars in any six-month period.”

7  
8 V. Section 16-14-100 of the 1976 Code is amended to read:

9  
10 “Section 16-14-100. (a) A crime punishable under this  
11 subsection is a misdemeanor under the jurisdiction of the  
12 magistrates or municipal court, notwithstanding the provisions of  
13 Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
14 conviction, the person must be fined not more than ~~one~~ two  
15 thousand dollars or imprisoned not more than one year, or both.

16 (b) A crime punishable under this subsection is a felony and,  
17 upon conviction, the person must be fined not less than three  
18 thousand dollars nor more than five thousand dollars or imprisoned  
19 not more than five years, or both.”

20  
21 W. Section 16-17-600(C) of the 1976 Code, as last amended by  
22 Act 229 of 2004, is further amended to read:

23  
24 “(C)(1) It is unlawful for a person wilfully and knowingly to  
25 steal anything of value located upon or around a repository for  
26 human remains or within a human graveyard, cemetery, or  
27 memorial park, or for a person wilfully, knowingly, and without  
28 proper legal authority to destroy, tear down, or injure any fencing,  
29 plants, trees, shrubs, or flowers located upon or around a repository  
30 for human remains, or within a human graveyard, cemetery, or  
31 memorial park.

32 (2) A person violating the provisions of item (1) is guilty of:

33 (a) a felony and, upon conviction, if the theft of,  
34 destruction to, injury to, or loss of property is valued at ~~two~~ four  
35 hundred dollars or more, must be fined not more than five  
36 thousand dollars or imprisoned not more than five years, or both,  
37 and must be required to perform not more than five hundred hours  
38 of community service;

39 (b) a misdemeanor triable in magistrates court or  
40 municipal court, notwithstanding the provisions of Sections  
41 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the theft of,  
42 destruction to, injury to, or loss of property is valued at less than  
43 ~~two~~ four hundred dollars. Upon conviction, a person must be fined

1 not more than one thousand dollars, or imprisoned not more than  
2 thirty days, or both, pursuant to the jurisdiction of magistrates as  
3 provided in Section 22-3-550, and must be required to perform not  
4 more than two hundred fifty hours of community service.”

5  
6 X. Section 16-21-80 of the 1976 Code is amended to read:

7  
8 “Section 16-21-80. A person not entitled to the possession of  
9 a vehicle who receives, possesses, conceals, sells, or disposes of it,  
10 knowing it to be stolen or converted under circumstances  
11 constituting a crime, is guilty of a:

12 (1) misdemeanor triable in ~~magistrate’s~~ magistrates court or  
13 municipal court, notwithstanding the provisions of Sections  
14 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
15 vehicle is ~~one~~ two thousand dollars or less. Upon conviction, the  
16 person must be fined; not more than one thousand dollars, or  
17 imprisoned, not more than is permitted by law without presentment  
18 or indictment by the grand jury not more than thirty days, or both;

19 (2) felony and upon conviction, must be fined in the discretion  
20 of the court or imprisoned not more than five years, or both, if the  
21 value of the vehicle is more than ~~one~~ two thousand dollars but less  
22 than ~~five~~ ten thousand dollars;

23 (3) felony and upon conviction, must be fined in the discretion  
24 of the court or imprisoned not more than ten years, or both, if the  
25 value of the vehicle is ~~five~~ ten thousand dollars or more.”

26  
27 Y. Section 36-9-410(C) of the 1976 Code, as added by Act 265  
28 of 2004, is amended to read:

29  
30 “(C) If the value of the personal property subject to a perfected  
31 security interest is worth:

32 (1) ~~one~~ two thousand dollars or less, a person who violates  
33 the provisions of this section is guilty of a misdemeanor triable in  
34 the ~~magistrate’s~~ magistrates court or the municipal court,  
35 notwithstanding the provisions of Sections 22-3-540, 22-3-545,  
36 22-3-550, and 14-25-65, and, upon conviction, must be fined not  
37 more than ~~five hundred one thousand~~ one thousand dollars or imprisoned not  
38 more than thirty days, or both;

39 (2) more than ~~one~~ two thousand dollars but less than ~~five~~ ten  
40 thousand dollars, a person who violates the provisions of this  
41 section is guilty of a felony and, upon conviction, must be fined in  
42 the discretion of the court or imprisoned not more than five years,  
43 or both;

1 (3) ~~five~~ ten thousand dollars or more, a person who violates  
2 the provisions of this section is guilty of a felony and, upon  
3 conviction, must be fined in the discretion of the court or  
4 imprisoned not more than ten years, or both.”

5  
6 Z. Section 38-55-170 of the 1976 Code is amended to read:

7  
8 “Section 38-55-170. A person who knowingly causes to be  
9 presented a false claim for payment to an insurer transacting  
10 business in this State, to a health maintenance organization  
11 transacting business in this State, or to any person, including the  
12 State of South Carolina, providing benefits for health care in this  
13 State, whether these benefits are administered directly or through a  
14 third person, or who knowingly assists, solicits, or conspires with  
15 another to present a false claim for payment as described above, is  
16 guilty of a:

17 (1) felony if the amount of the claim is ~~five~~ ten thousand  
18 dollars or more. Upon conviction, the person must be imprisoned  
19 not more than ten years or fined not more than five thousand  
20 dollars, or both;

21 (2) felony if the amount of the claim is more than ~~one~~ two  
22 thousand dollars but less than ~~five~~ ten thousand dollars. Upon  
23 conviction, the person must be fined in the discretion of the court  
24 or imprisoned not more than five years, or both;

25 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
26 municipal court, notwithstanding the provisions of Sections  
27 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of the  
28 claim is ~~one~~ two thousand dollars or less. Upon conviction, the  
29 person must be fined not more than one thousand dollars, or  
30 imprisoned ~~not more than is permitted by law without presentment~~  
31 or indictment by the grand jury not more than thirty days, or both.”

32  
33 A.A. Section 45-1-50(A) of the 1976 Code, as last amended by  
34 Act 81 of 1999, is further amended to read:

35  
36 “(A) A person who:

37 (1) obtains food, lodging or other service, or accommodation  
38 at any hotel, motel, inn, boarding or rooming house, campground,  
39 cafe, or restaurant and intentionally absconds without paying for it;  
40 or

41 (2) while a guest at any hotel, motel, inn, boarding or  
42 rooming house, campground, cafe, or restaurant, intentionally  
43 defrauds the keeper in a transaction arising out of the relationship

1 as guest, is guilty of a misdemeanor and, upon conviction, must be  
2 fined not more than ~~five hundred~~ one thousand dollars or  
3 imprisoned not more than six months, or both. Notwithstanding  
4 the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and  
5 14-25-65, an offense punishable under this subsection may be tried  
6 in magistrates or municipal court.”

7  
8 B.B. Section 45-2-40 of the 1976 Code, as added by Act 446 of  
9 1994, is amended to read:

10  
11 “Section 45-2-40.(A) A person who on the premises or  
12 property of a lodging establishment:

13 (1) uses or possesses a controlled substance in violation of  
14 Chapter 53 of Title 44;

15 (2) consumes or possesses beer, wine, or alcoholic liquors in  
16 violation of Sections 63-19-2440 or ~~630-19-2450~~ 63-19-2450; is  
17 guilty of a misdemeanor under the jurisdiction of the magistrates  
18 or municipal court, notwithstanding the provisions of Sections  
19 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
20 conviction, must be fined not more than five hundred dollars or  
21 imprisoned not more than thirty days.

22 (B) A person who on the premises or property of a lodging  
23 establishment maliciously and wilfully commits a violation of this  
24 chapter resulting in damage to a lodging establishment room or its  
25 furnishings is guilty of a:

26 (1) felony and, upon conviction, must be fined in the  
27 discretion of the court or imprisoned not more than ten years if the  
28 amount of injury or damage to the property is ~~five~~ ten thousand  
29 dollars or more;

30 (2) felony and, upon conviction, must be fined in the  
31 discretion of the court or imprisoned not more than five years if the  
32 amount of injury or damage to the property is more than ~~one~~ two  
33 thousand dollars but less than ~~five~~ ten thousand dollars;

34 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
35 municipal court, notwithstanding the provisions of Sections  
36 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of  
37 injury or damage to the property is ~~one~~ two thousand dollars or  
38 less. Upon conviction, the person must be fined not more than ~~five~~  
39 ~~hundred~~ one thousand dollars or imprisoned not more than thirty  
40 days.

41 (C) A person who rents or leases a room in a lodging  
42 establishment for the purpose of allowing the room to be used by  
43 another to do any act enumerated in subsections (A) or (B) of this

1 section is guilty of a misdemeanor under the jurisdiction of the  
2 magistrates or municipal court, notwithstanding the provisions of  
3 Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon  
4 conviction, must be fined not more than ~~five hundred~~ one thousand  
5 dollars or imprisoned not more than thirty days.

6 (D) In a case arising under this section involving damage to a  
7 lodging establishment room or its furnishings, the court may order  
8 the person renting or leasing the lodging establishment room or the  
9 person causing such damage, or both:

10 (1) to pay restitution for any damages suffered by the owner  
11 or operator of the lodging establishment, which damages may  
12 include the lodging establishment's loss of revenue resulting from  
13 the establishment's inability to rent or lease the room during the  
14 period of time the lodging establishment room is being repaired;  
15 and

16 (2) to pay damages or restitution to any other person who is  
17 injured in person or property.

18 In a case arising under this subsection triable in ~~magistrate's~~  
19 magistrates court or municipal court, notwithstanding the  
20 provisions of Sections 22-3-540, 22-3-545, 22-3-550, and  
21 14-25-65, a magistrate judge may order restitution not to exceed  
22 one thousand dollars the civil jurisdictional amount of magistrates  
23 court provided in 22-3-10(2).

24 In the case of a minor, the parents of the minor are liable for acts  
25 of the minor in violation of this section which cause damages to  
26 the lodging establishment room or furnishings or cause injury to  
27 persons or property.

28 (E) This section does not prohibit the prosecution of a person  
29 for the underlying violation which occurred on the premises or  
30 property of the lodging establishment.”

31  
32 C.C. Section 46-1-20 of the 1976 Code, as last amended by Act  
33 184 of 1993, is further amended to read:

34  
35 “Section 46-1-20. A person who steals from the field any grain,  
36 cotton, or vegetables, whether severed from the freehold or not, is  
37 guilty of a:

38 (1) felony and, upon conviction, must be imprisoned not more  
39 than ten years or fined not more than five hundred dollars if the  
40 value of the crop is ~~five~~ ten thousand dollars or more;

41 (2) felony and, upon conviction, must be fined in the discretion  
42 of the court or imprisoned not more than five years if the value of

1 the crop is more than ~~one~~ two thousand dollars but less than ~~five~~  
2 ten thousand dollars;

3 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
4 municipal court, notwithstanding the provisions of Sections  
5 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
6 crop is ~~one~~ two thousand dollars or less. Upon conviction, the  
7 person must be fined not more than one thousand dollars, or  
8 imprisoned ~~not more than is permitted by law without presentment~~  
9 ~~or indictment by the grand jury~~ not more than thirty days."

10  
11 D.D. Section 46-1-40 of the 1976 Code, as last amended by Act  
12 184 of 1993, is further amended to read:

13  
14 "Section 46-1-40. A person who steals tobacco plants, whether  
15 severed from the freehold or not, from any tobacco plant beds is  
16 guilty of a:

17 (1) felony and, upon conviction, must be imprisoned not more  
18 than ten years or fined not more than five hundred dollars if the  
19 value of the tobacco plants is ~~five~~ ten thousand dollars or more;

20 (2) felony and, upon conviction, must be fined in the discretion  
21 of the court or imprisoned not more than five years if the value of  
22 the tobacco plants is more than ~~one~~ two thousand dollars but less  
23 than ~~five~~ ten thousand dollars;

24 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
25 municipal court, notwithstanding the provisions of Sections  
26 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
27 tobacco plants is ~~one~~ two thousand dollars or less. Upon  
28 conviction, the person must be fined not more than one thousand  
29 dollars, or imprisoned ~~not more than is permitted by law without~~  
30 ~~presentment or indictment by the grand jury~~ not more than thirty  
31 days."

32  
33 E.E. Section 46-1-60(B) of the 1976 Code, as last amended by Act  
34 184 of 1993, is further amended to read:

35  
36 "(B) A person who violates the provisions of this section is  
37 guilty of a:

38 (1) felony and, upon conviction, must be fined in the  
39 discretion of the court or imprisoned not more than ten years, or  
40 both, if the sale amount of the commodities is ~~five~~ ten thousand  
41 dollars or more;

42 (2) felony and, upon conviction, must be fined in the  
43 discretion of the court or imprisoned not more than five years, or

1 both, if the sale amount of the commodities is more than ~~one~~ two  
2 thousand dollars but less than ~~five~~ ten thousand dollars;

3 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
4 municipal court, notwithstanding the provisions of Sections  
5 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the sale amount of  
6 the commodities is ~~one~~ two thousand dollars or less. Upon  
7 conviction, the person must be fined not more than one thousand  
8 dollars, or imprisoned ~~not more than is permitted by law without~~  
9 ~~presentment or indictment by the grand jury~~ not more than thirty  
10 days, or both."

11  
12 F.F. Section 46-1-70(B) of the 1976 Code, as last amended by Act  
13 184 of 1993, is further amended to read:

14  
15 "(B) A person who violates the provisions of this section is  
16 guilty of a:

17 (1) felony and, upon conviction, must be fined in the  
18 discretion of the court or imprisoned not more than ten years, or  
19 both, if the sale amount of the commodities is ~~five~~ ten thousand  
20 dollars or more;

21 (2) felony and, upon conviction, must be fined in the  
22 discretion of the court or imprisoned not more than five years, or  
23 both, if the sale amount of the commodities is more than ~~one~~ two  
24 thousand dollars but less than ~~five~~ ten thousand dollars;

25 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
26 municipal court, notwithstanding the provisions of Sections  
27 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the sale amount of  
28 the commodities is ~~one~~ two thousand dollars or less. Upon  
29 conviction, the person must be fined not more than one thousand  
30 dollars, or imprisoned ~~not more than is permitted by law without~~  
31 ~~presentment or indictment by the grand jury~~ not more than thirty  
32 days, or both."

33  
34 G.G. Section 49-1-50(C) of the 1976 Code is amended to read:

35  
36 "(C) A person who violates the provisions of this section is  
37 guilty of a:

38 (1) felony and, upon conviction, must be fined in the  
39 discretion of the court or imprisoned not more than ten years, or  
40 both, if the value of the lumber or timber is ~~five~~ ten thousand  
41 dollars or more.

42 (2) felony and, upon conviction, must be fined in the  
43 discretion of the court or imprisoned not more than five years, or



1 both, if the value of the lumber or timber is more than ~~one~~ two  
2 thousand dollars but less than ~~five~~ ten thousand dollars.

3 (3) misdemeanor triable in ~~magistrate's~~ magistrates court or  
4 municipal court, notwithstanding the provisions of Sections  
5 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the  
6 lumber or timber is ~~one~~ two thousand dollars or less. Upon  
7 conviction, the person must be fined not more than one thousand  
8 dollars, or imprisoned not more than is permitted by law without  
9 presentment or indictment by the grand jury not more than thirty  
10 days, or both."

11  
12 SECTION 17. Section 16-13-425 of the 1976 Code is repealed.

13  
14 SECTION 18. A. Section 56-1-460(A) of the 1976 Code is  
15 amended to read:

16  
17 "Section 56-1-460. (A)(1) Except as provided in ~~subitem~~ item  
18 (2), a person who drives a motor vehicle on any public highway of  
19 this State when his license to drive is canceled, suspended, or  
20 revoked must, upon conviction, be punished as follows:

21 (a) for a first offense, fined three hundred dollars or  
22 imprisoned for up to thirty days, or both;

23 (b) for a second offense, fined six hundred dollars or  
24 imprisoned for up to sixty consecutive days, or both; and

25 (c) for a third and subsequent offense, fined one thousand  
26 dollars and imprisoned for ~~not less than~~ up to ninety days or  
27 confined to a person's place of residence pursuant to the Home  
28 Detention Act for not less than ninety days nor more than six  
29 months; ~~no~~ No portion of ~~which~~ a term of imprisonment or  
30 confinement under home detention may be suspended by the trial  
31 judge. For purposes of this item, a person sentenced to  
32 confinement pursuant to the Home Detention Act is required to  
33 pay for the cost of such confinement.

34 (d) Notwithstanding the provisions of Sections 22-3-540,  
35 22-3-545, ~~and~~ 22-3-550, ~~and~~ 14-25-65, an offense punishable  
36 under this ~~subitem~~ item may be tried in ~~magistrate's~~ magistrates or  
37 municipal court.

38 (e)(i) A person convicted of a first or second offense of  
39 this item, as determined by the records of the department, and who  
40 is employed or enrolled in a college or university at any time while  
41 his driver's license is suspended pursuant to this item, may apply  
42 for a route restricted driver's license permitting him to drive only  
43 to and from work or his place of education and in the course of his

1 employment or education during the period of suspension. The  
2 department may issue the route restricted driver's license only  
3 upon a showing by the person that he is employed or enrolled in a  
4 college or university and that he lives further than one mile from  
5 his place of employment or place of education.

6 (ii) When the department issues a route restricted  
7 driver's license, it shall designate reasonable restrictions on the  
8 times during which and routes on which the person may operate a  
9 motor vehicle. A person holding a route restricted driver's license  
10 pursuant to this item must report to the department immediately  
11 any change in his employment hours, place of employment, status  
12 as a student, or residence.

13 (iii) The fee for a route restricted driver's license issued  
14 pursuant to this item is one hundred dollars, but no additional fee is  
15 due when changes occur in the place and hours of employment,  
16 education, or residence. Of this fee, eighty dollars must be placed  
17 by the Comptroller General into a special restricted account to be  
18 used by the Department of Motor Vehicles to defray its expenses.  
19 The remainder of the fees collected pursuant to this item must be  
20 credited to the Department of Transportation State Non-Federal  
21 Aid Highway Fund.

22 (iv) The operation of a motor vehicle outside the time  
23 limits and route imposed by a route restricted license by the person  
24 issued that license is a violation of item (A)(1).

25 (2) A person who drives a motor vehicle on any public  
26 highway of this State when his license has been suspended or  
27 revoked pursuant to the provisions of Section 56-5-2990 must,  
28 upon conviction, be punished as follows:

29 (a) for a first offense, fined three hundred dollars or  
30 imprisoned for not less than ten nor more than thirty days;

31 (b) for a second offense, fined six hundred dollars or  
32 imprisoned for not less than sixty days nor more than six months;

33 (c) for a third and subsequent offense, fined one thousand  
34 dollars and imprisoned for not less than six months nor more than  
35 three years.

36 (d) No portion of the minimum sentence imposed under  
37 this ~~subitem~~ item may be suspended."

38  
39 B. Article 5, Chapter 1, Title 56 of the 1976 Code is amended by  
40 adding:

41  
42 "Section 56-1-1105. (A) For purposes of this section:

1 (1) 'Great bodily injury' means bodily injury which creates a  
2 substantial risk of death or which causes serious, permanent  
3 disfigurement, or protracted loss or impairment of the function of  
4 any bodily member or organ.

5 (2) 'Habitual offender' has the same meaning as in Section  
6 56-1-1020.

7 (B) An habitual offender who drives a motor vehicle on any  
8 public highway of this State when the offender's license to drive  
9 has been canceled, suspended, or revoked, and when driving does  
10 any act forbidden by law or neglects any duty imposed by law in  
11 the driving of the motor vehicle, which act or neglect proximately  
12 causes great bodily injury or death to a person other than himself,  
13 is guilty of a felony, and, upon conviction, guilty plea, or nolo  
14 contendere plea must be punished:

15 (1) by a fine of not more than five thousand dollars and  
16 imprisonment for not more than ten years when great bodily injury  
17 results; or

18 (2) by a fine of not less than five thousand dollars nor more  
19 than ten thousand dollars and imprisonment for not more than  
20 twenty years when death results.

21 (C) The Department of Motor Vehicles must suspend the  
22 driver's license of an habitual offender who is convicted, pleads  
23 guilty, or pleads nolo contendere pursuant to this section for a  
24 period to include incarceration plus two years when great bodily  
25 injury results and three years when death results. The period of  
26 incarceration must not include any portion of a suspended sentence  
27 such as probation, parole, supervised furlough, or community  
28 supervision. For suspension purposes of this section, convictions  
29 arising out of a single incident shall run concurrently."

30  
31 SECTION 19. Section 16-5-50 of the 1976 Code is amended to  
32 read:

33  
34 "Section 16-5-50. Any person who shall (a) hinder, prevent  
35 or obstruct any officer or other person charged with the execution  
36 of any warrant or other process issued under the provisions of this  
37 chapter in arresting any person for whose apprehension such  
38 warrant or other process may have been issued, (b) rescue or  
39 attempt to rescue such person from the custody of the officer or  
40 person or persons lawfully assisting him, as aforesaid, (c) aid, abet  
41 or assist any person so arrested, as aforesaid, directly or indirectly,  
42 to escape from the custody of the officer or person or persons  
43 assisting him, as aforesaid, or (d) harbor or conceal any person for

1 whose arrest a warrant or other process shall have been issued, so  
2 as to prevent his discovery and arrest, after notice or knowledge of  
3 the fact of the issuing of such warrant or other process, shall, on  
4 conviction for any such offense, be subject to a fine of not less  
5 ~~than fifty nor more than one~~ three thousand dollars or  
6 imprisonment for not ~~less than three months nor more than one~~  
7 year three years, or both, at the discretion of the court having  
8 jurisdiction.”

9  
10 SECTION 20. Section 17-25-45 of the 1976 Code, as last  
11 amended by Act 72 of 2007, is further amended to read:

12  
13 “Section 17-25-45. (A) Notwithstanding any other provision of  
14 law, except in cases in which the death penalty is imposed, upon a  
15 conviction for a most serious offense as defined by this section, a  
16 person must be sentenced to a term of imprisonment for life  
17 without the possibility of parole if that person has either:

18 (1) one or more prior convictions for:

19 (1a) a most serious offense; or

20 (2b) a federal or out-of-state conviction for an offense that  
21 would be classified as a most serious offense under this section; or

22 ~~(3) any combination of the offenses listed in items (1) and (2)~~  
23 ~~above~~

24 (2) two or more prior convictions for:

25 (a) a serious offense; or

26 (b) a federal or out-of-state conviction for an offense that  
27 would be classified as a serious offense under this section.

28 (B) Notwithstanding any other provision of law, except in cases  
29 in which the death penalty is imposed, upon a conviction for a  
30 serious offense as defined by this section, a person must be  
31 sentenced to a term of imprisonment for life without the possibility  
32 of parole if that person has two or more prior convictions for:

33 (1) a serious offense;

34 (2) a most serious offense;

35 (3) a federal or out-of-state offense that would be classified  
36 as a serious offense or most serious offense under this section; or

37 (4) any combination of the offenses listed in items (1), (2),  
38 and (3) above.

39 (C) As used in this section:

40 (1) ‘Most serious offense’ means:

41 16-1-40 Accessory, for any offense enumerated  
42 in this item

1	16-1-80	Attempt, for any offense enumerated in
2	this item	
3	16-3-10	Murder
4	<u>16-3-29</u>	<u>Attempted Murder</u>
5	<del>16-3-30</del>	<del>Killing by poison</del>
6	<del>16-3-40</del>	<del>Killing by stabbing or thrusting</del>
7	16-3-50	Voluntary manslaughter
8	16-3-85(A)(1)	Homicide by child abuse
9	16-3-85(A)(2)	Aiding and abetting homicide by child
10	abuse	
11	16-3-210	Lynching, First degree
12	<u>16-3-210(B)</u>	<u>Assault and battery by mob, First</u>
13	<u>degree</u>	
14	<del>16-3-430</del>	<del>Killing in a duel</del>
15	16-3-620	Assault and battery with intent to kill
16	16-3-652	Criminal sexual conduct, First degree
17	16-3-653	Criminal sexual conduct, Second degree
18	16-3-655	Criminal sexual conduct with minors,
19	except where evidence presented at the criminal proceeding and	
20	the court, after the conviction, makes a specific finding on the	
21	record that the conviction obtained for this offense resulted from	
22	consensual sexual conduct where the victim was younger than the	
23	actor, as contained in Section 16-3-655(3)	
24	16-3-656	Assault with intent to commit criminal
25	sexual conduct, First and Second degree	
26	16-3-910	Kidnapping
27	16-3-920	Conspiracy to commit kidnapping
28	16-3-1075	Carjacking
29	16-11-110(A)	Arson, First degree
30	16-11-311	Burglary, First degree
31	16-11-330(A)	Armed robbery
32	16-11-330(B)	Attempted armed robbery
33	16-11-540	Damaging or destroying building,
34	vehicle, or other property by means of explosive incendiary, death	
35	results	
36	24-13-450	Taking of a hostage by an inmate
37	25-7-30	Giving information respecting national
38	or state defense to foreign contacts during war	
39	25-7-40	Gathering information for an enemy
40	43-35-85(F)	Abuse or neglect of a vulnerable adult
41	resulting in death	
42	55-1-30(3)	Unlawful removing or damaging of
43	airport facility or equipment when death results	

1           56-5-1030(B)(3) Interference with traffic-control devices  
2 or railroad signs or signals prohibited when death results from  
3 violation  
4           58-17-4090 Obstruction of railroad, death results.  
5       (2) ‘Serious offense’ means:  
6       (a) any offense which is punishable by a maximum term  
7 of imprisonment for thirty years or more which is not referenced in  
8 subsection (C)(1);  
9       (b) those felonies enumerated as follows:  
10       16-3-220 Lynching, Second degree  
11       16-3-210(C) Assault and battery by mob, Second  
12 degree  
13       16-3-600(B) Assault and battery of a high and  
14 aggravated nature  
15       16-3-810 Engaging child for sexual performance  
16       16-9-220 Acceptance of bribes by officers  
17       16-9-290 Accepting bribes for purpose of  
18 procuring public office  
19       16-11-110(B) Arson, Second degree  
20       16-11-312(B) Burglary, Second degree  
21       16-11-380(B) Theft of a person using an automated  
22 teller machine  
23       16-13-210(1) Embezzlement of public funds  
24       16-13-230(B)(3) Breach of trust with fraudulent intent  
25       16-13-240(1) Obtaining signature or property by false  
26 pretenses  
27       38-55-540(3) Insurance fraud  
28       44-53-370(e) Trafficking in controlled substances  
29       44-53-375(C) Trafficking in ice, crack, or crack  
30 cocaine  
31       44-53-445(B)(1)&(2) Distribute, sell, manufacture, or  
32 possess with intent to distribute controlled substances within  
33 proximity of school  
34       56-5-2945 Causing death by operating vehicle  
35 while under influence of drugs or alcohol; and  
36       (c) the offenses enumerated below:  
37       16-1-40 Accessory before the fact for any of the  
38 offenses listed in subitems (a) and (b)  
39       16-1-80 Attempt to commit any of the offenses  
40 listed in subitems (a) and (b)  
41       43-35-85(E) Abuse or neglect of a vulnerable adult  
42 resulting in great bodily injury.

1 (3) ‘Conviction’ means any conviction, guilty plea, or plea  
2 of nolo contendere.

3 (D) Except as provided in this subsection or subsection (E), no  
4 person sentenced pursuant to this section shall be eligible for early  
5 release or discharge in any form, whether by parole, work release,  
6 release to ameliorate prison overcrowding, or any other early  
7 release program, nor shall they be eligible for earned work credits,  
8 education credits, good conduct credits, or any similar program for  
9 early release. A person is eligible for work release if the person is  
10 sentenced for voluntary manslaughter (Section 16-3-50,  
11 kidnapping (Section 16-3-910), carjacking (Section 16-3-1075),  
12 burglary in the second degree (Section 16-11-312(B)), armed  
13 robbery (Section 16-11-330(A)), or attempted armed robbery  
14 (Section 16-11-330(B)), the crime did not involve any criminal  
15 sexual conduct or an additional violent crime as defined in Section  
16 16-1-60, and the person is within three years of release from  
17 imprisonment.

18 (E) For the purpose of this section only, a person sentenced  
19 pursuant to this section may be paroled if:

20 (1) the Department of Corrections requests the Department  
21 of Probation, Parole, and Pardon Services to consider the person  
22 for parole; and

23 (2) the Department of Probation, Parole, and Pardon  
24 Services determines that due to the person’s health or age he is no  
25 longer a threat to society; and

26 (a) the person has served at least thirty years of the  
27 sentence imposed pursuant to this section and has reached at least  
28 sixty-five years of age; or

29 (b) the person has served at least twenty years of the  
30 sentence imposed pursuant to this section and has reached at least  
31 seventy years of age; or

32 (c) the person is afflicted with a terminal illness where life  
33 expectancy is one year or less; or

34 (d) the person can produce evidence comprising the most  
35 extraordinary circumstances.

36 (F) For the purpose of determining a prior or previous  
37 conviction under this section and Section 17-25-50, a prior or  
38 previous conviction shall mean the defendant has been convicted  
39 of a most serious or serious offense, as may be applicable, on a  
40 separate occasion, prior to the instant adjudication. There is no  
41 requirement that the sentence for the prior or previous conviction  
42 must have been served or completed before a sentence of life  
43 without parole can be imposed under this section.

1 (G) The decision to invoke sentencing under ~~Section~~  
2 ~~17-25-45(B)~~ this section is in the discretion of the solicitor. ~~The~~  
3 ~~provisions of Section 17-25-45(A) shall be mandatory.~~

4 (H) Where the solicitor is required to seek or determines to seek  
5 sentencing of a defendant under this section, written notice must be  
6 given by the solicitor to the defendant and defendant's counsel not  
7 less than ten days before trial."

8  
9 SECTION 21. Section 16-3-20(A) and (B) of the 1976 Code, as  
10 last amended by Act 278 of 2002, is further amended to read:

11  
12 "(A) A person who is convicted of or pleads guilty to murder  
13 must be punished by death, ~~by imprisonment for life~~, or by a  
14 mandatory minimum term of imprisonment for thirty years to life.  
15 If the State seeks the death penalty and a statutory aggravating  
16 circumstance is found beyond a reasonable doubt pursuant to  
17 subsections (B) and (C), and a recommendation of death is not  
18 made, the trial judge must impose a sentence of life imprisonment.  
19 For purposes of this section, 'life' or 'life imprisonment' means  
20 until death of the offender without the possibility of parole, and  
21 when requested by the State or the defendant, the judge must  
22 charge the jury in his instructions that life imprisonment means  
23 until the death of the defendant without the possibility of parole.  
24 In cases where the defendant is eligible for parole, the judge must  
25 charge the applicable parole eligibility statute. No person  
26 sentenced to life imprisonment pursuant to this section is eligible  
27 for parole, community supervision, or any early release program,  
28 nor is the person eligible to receive any work credits, education  
29 credits, good conduct credits, or any other credits that would  
30 reduce the mandatory life imprisonment required by this section.  
31 No person sentenced to a mandatory minimum term of  
32 imprisonment for thirty years to life pursuant to this section is  
33 eligible for parole or any early release program, nor is the person  
34 eligible to receive any work credits, education credits, good  
35 conduct credits, or any other credits that would reduce the  
36 mandatory minimum term of imprisonment for thirty years to life  
37 required by this section. Under no circumstances may a female  
38 who is pregnant be executed so long as she is pregnant or for a  
39 period of at least nine months after she is no longer pregnant.  
40 When the Governor commutes a sentence of death to life  
41 imprisonment under the provisions of Section 14 of Article IV of  
42 the Constitution of South Carolina, 1895, the commuttee is not  
43 eligible for parole, community supervision, or any early release



1 program, nor is the person eligible to receive any work credits,  
2 good conduct credits, education credits, or any other credits that  
3 would reduce the mandatory imprisonment required by this  
4 subsection.

5 (B) When the State seeks the death penalty, upon conviction or  
6 adjudication of guilt of a defendant of murder, the court shall  
7 conduct a separate sentencing proceeding. In the proceeding, if a  
8 statutory aggravating circumstance is found, the defendant must be  
9 sentenced to either death or life imprisonment. If no statutory  
10 aggravating circumstance is found, the defendant must be  
11 sentenced to either life imprisonment or a mandatory minimum  
12 term of imprisonment for thirty years to life. The proceeding must  
13 be conducted by the trial judge before the trial jury as soon as  
14 practicable after the lapse of twenty-four hours unless waived by  
15 the defendant. If trial by jury has been waived by the defendant  
16 and the State, or if the defendant pleaded guilty, the sentencing  
17 proceeding must be conducted before the judge. In the sentencing  
18 proceeding, the jury or judge shall hear additional evidence in  
19 extenuation, mitigation, or aggravation of the punishment. Only  
20 such evidence in aggravation as the State has informed the  
21 defendant in writing before the trial is admissible. This section  
22 must not be construed to authorize the introduction of any  
23 evidence secured in violation of the Constitution of the United  
24 States or the State of South Carolina or the applicable laws of  
25 either. The State, the defendant, and his counsel are permitted to  
26 present arguments for or against the sentence to be imposed. The  
27 defendant and his counsel shall have the closing argument  
28 regarding the sentence to be imposed.”

29  
30 SECTION 22. Sections 16-3-30, 16-3-40, and 16-3-430 of the  
31 1976 Code are repealed.

32  
33 SECTION 23. Section 14-25-65 of the 1976 Code, as last  
34 amended by Act 78 of 1999, is further amended to read:

35  
36 “Section 14-25-65. If a municipal judge finds a party guilty of  
37 violating a municipal ordinance or a state law within the  
38 jurisdiction of the court, he may impose a fine of not more than  
39 five hundred dollars or imprisonment for thirty days, or both. In  
40 addition, a municipal judge may order restitution in an amount not  
41 to exceed ~~five thousand dollars~~ the civil jurisdictional amount of  
42 magistrates court provided in Section 22-3-10(2). In determining  
43 the amount of restitution, the judge shall determine and itemize the

1 actual amount of damage or loss in the order. In addition, the  
2 judge may set an appropriate payment schedule.

3 A municipal judge may hold a party in contempt for failure to  
4 pay the restitution ordered if the judge finds the party has the  
5 ability to pay.”

6  
7 SECTION 24. Section 22-3-550(A) of the 1976 Code is  
8 amended to read:

9  
10 “Section 22-3-550. (A) Magistrates have jurisdiction of all  
11 offenses which may be subject to the penalties of a fine or  
12 forfeiture not exceeding five hundred dollars, or imprisonment not  
13 exceeding thirty days, or both. In addition, a magistrate may order  
14 restitution in an amount not to exceed ~~five thousand dollars~~ the  
15 civil jurisdictional amount provided in Section 22-3-10(2). In  
16 determining the amount of restitution, the judge shall determine  
17 and itemize the actual amount of damage or loss in the order. In  
18 addition, the judge may set an appropriate payment schedule.

19 A magistrate may hold a party in contempt for failure to pay the  
20 restitution ordered if the judge finds the party has the ability to  
21 pay.”

22  
23 SECTION 25. Article 5, Chapter 23, Title 16 of the 1976 Code  
24 is amended by adding:

25  
26 “Section 16-23-500. (A) It is unlawful for a person who has  
27 been convicted of a violent crime, as defined by Section 16-1-60,  
28 that is classified as a felony offense, to possess a firearm or  
29 ammunition within this State.

30 (B) A person who violates the provisions of this section is  
31 guilty of a felony and, upon conviction, must be fined not more  
32 than two thousand dollars or imprisoned not more than five years,  
33 or both.

34 (C) In addition to the penalty provided in this section, the  
35 firearm or ammunition involved in the violation of this section  
36 must be confiscated. The firearm or ammunition must be delivered  
37 to the chief of police of the municipality or to the sheriff of the  
38 county if the violation occurred outside the corporate limits of a  
39 municipality. The law enforcement agency that receives the  
40 confiscated firearm or ammunition may use it within the agency,  
41 transfer it to another law enforcement agency for the lawful use of  
42 that agency, trade it with a retail dealer licensed to sell firearms or  
43 ammunition in this State for a firearm, ammunition or any other

1 equipment approved by the agency, or destroy it. A firearm or  
2 ammunition must not be disposed of in any manner until the  
3 results of any legal proceeding in which it may be involved are  
4 finally determined. If the State Law Enforcement Division seized  
5 the firearm or ammunition, the division may keep the firearm or  
6 ammunition for use by its forensic laboratory. Records must be  
7 kept of all confiscated firearms or ammunition received by the law  
8 enforcement agencies under the provisions of this section.

9 (D) The judge that hears the case involving the violent offense,  
10 as defined by Section 16-1-60, that is classified as a felony offense,  
11 shall make a specific finding on the record that the offense is a  
12 violent offense, as defined by Section 16-1-60, and is classified as  
13 a felony offense.”

14  
15 SECTION 26. Section 16-1-60 of the 1976 Code, as last  
16 amended by Act 379 of 2006, is further amended to read:

17  
18 “Section 16-1-60. For purposes of definition under South  
19 Carolina law, a violent crime includes the offenses of: murder  
20 (Section 16-3-10 ); attempted murder (Section 16-3-29); assault  
21 and battery by mob, first degree, resulting in death (Section  
22 16-3-210(B)); criminal sexual conduct in the first and second  
23 degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct  
24 with minors, first and second degree (Section 16-3-655); assault  
25 with intent to commit criminal sexual conduct, first and second  
26 degree (Section 16-3-656); assault and battery with intent to kill  
27 (Section 16-3-620); assault and battery of a high and aggravated  
28 nature (Section 16-3-600(B)); kidnapping (Section 16-3-910);  
29 voluntary manslaughter (Section 16-3-50); armed robbery (Section  
30 16-11-330(A)); attempted armed robbery (Section 16-11-330(B));  
31 carjacking (Section 16-3-1075); drug trafficking as defined in  
32 Section 44-53-370(e) or trafficking cocaine base as defined in  
33 Section 44-53-375(C); manufacturing or trafficking  
34 methamphetamine as defined in Section 44-53-375; arson in the  
35 first degree (Section 16-11-110(A)); arson in the second degree  
36 (Section 16-11-110(B)); burglary in the first degree (Section  
37 16-11-311); burglary in the second degree (Section 16-11-312(B));  
38 engaging a child for a sexual performance (Section 16-3-810);  
39 homicide by child abuse (Section 16-3-85(A)(1)); aiding and  
40 abetting homicide by child abuse (Section 16-3-85(A)(2));  
41 inflicting great bodily injury upon a child (Section 16-3-95(A));  
42 allowing great bodily injury to be inflicted upon a child (Section  
43 16-3-95(B)); criminal domestic violence of a high and aggravated

1 nature (Section 16-25-65); abuse or neglect of a vulnerable adult  
2 resulting in death (Section 43-35-85(F)); abuse or neglect of a  
3 vulnerable adult resulting in great bodily injury (Section  
4 43-35-85(E)); ~~accessory before the fact to commit any of the above~~  
5 ~~offenses (Section 16-1-40); attempt to commit any of the above~~  
6 ~~offenses (Section 16-1-80); and taking of a hostage by an inmate~~  
7 ~~(Section 24-13-450); detonating a destructive device upon the~~  
8 ~~capitol grounds resulting in death with malice (Section~~  
9 ~~10-33-325(B)(1)); spousal sexual battery (Section 16-3-615);~~  
10 ~~producing, directing, or promoting sexual performance by a child~~  
11 ~~(Section 16-3-820); lewd act upon a child under sixteen (Section~~  
12 ~~16-15-140); sexual exploitation of a minor first Degree (Section~~  
13 ~~16-15-395); sexual exploitation of a minor second degree (Section~~  
14 ~~16-15-405); promoting prostitution of a minor (Section~~  
15 ~~16-15-415); participating in prostitution of a minor (Section~~  
16 ~~16-15-425); aggravated voyeurism (Section 16-17-470(C));~~  
17 ~~detonating a destructive device resulting in death with malice~~  
18 ~~(Section 16-23-720(A)(1)); detonating a destructive device~~  
19 ~~resulting in death without malice (Section 16-23-720(A)(2));~~  
20 ~~boating under the influence resulting in death (Section~~  
21 ~~50-21-113(A)(2)); vessel operator's failure to render assistance~~  
22 ~~resulting in death (Section 50-21-130(A)(3)); damaging an airport~~  
23 ~~facility or removing equipment resulting in death (Section~~  
24 ~~55-1-30(3)); failure to stop when signaled by a law enforcement~~  
25 ~~vehicle resulting in death (Section 56-5-750(C)(2)); interference~~  
26 ~~with traffic-control devices, railroad signs, or signals resulting in~~  
27 ~~death (Section 56-5-1030(B)(3)); hit and run resulting in death~~  
28 ~~(Section 56-5-1210(A)(3)); felony driving under the influence or~~  
29 ~~felony driving with an unlawful alcohol concentration resulting in~~  
30 ~~death (Section 56-5-2945(A)(2)); putting destructive or injurious~~  
31 ~~materials on a highway resulting in death (Section 57-7-20(D));~~  
32 ~~obstruction of a railroad resulting in death (Section 58-17-4090);~~  
33 ~~accessory before the fact to commit any of the above offenses~~  
34 ~~(Section 16-1-40); and attempt to commit any of the above~~  
35 ~~offenses (Section 16-1-80). Only those offenses specifically~~  
36 enumerated in this section are considered violent offenses.”

37  
38 SECTION 27. Section 16-23-490(C) of the 1976 Code is  
39 amended to read:

40  
41 “(C) Except as provided in this subsection, The the person  
42 sentenced under this section is not eligible during this five-year  
43 period for parole, work release, or extended work release. The five

1 years may not be suspended and the person may not complete his  
2 term of imprisonment in less than five years pursuant to good-time  
3 credits or work credits, but may earn credits during this period.  
4 The person is eligible for work release, if the person is sentenced  
5 for voluntary manslaughter (Section 16-3-50), kidnapping (Section  
6 16-3-910), carjacking (Section 16-3-1075), burglary in the second  
7 degree (Section 16-11-312(B)), armed robbery (Section  
8 16-11-330(A)), or attempted armed robbery (Section  
9 16-11-330(B)), the crime did not involve any criminal sexual  
10 conduct or an additional violent crime as defined in Section  
11 16-1-60, and the person is within three years of release from  
12 imprisonment.”

13  
14 SECTION 28. Section 24-13-125(A) of the 1976 Code is  
15 amended to read:

16  
17 “(A)Notwithstanding any other provision of law, except in a  
18 case in which the death penalty or a term of life imprisonment is  
19 imposed, or as provided in this subsection, a prisoner convicted of  
20 a ‘no parole offense’, as defined in Section 24-13-100, and  
21 sentenced to the custody of the Department of Corrections,  
22 including a prisoner serving time in a local facility pursuant to a  
23 designated facility agreement authorized by Section 24-3-20, is not  
24 eligible for work release until the prisoner has served not less than  
25 eighty percent of the actual term of imprisonment imposed. This  
26 percentage must be calculated without the application of earned  
27 work credits, education credits, or good conduct credits, and is to  
28 be applied to the actual term of imprisonment imposed, not  
29 including any portion of the sentence which has been suspended.  
30 A person is eligible for work release if the person is sentenced for  
31 voluntary manslaughter (Section 16-3-50), kidnapping (Section  
32 16-3-910), carjacking (Section 16-3-1075), burglary in the second  
33 degree (Section 16-11-312(B)), armed robbery (Section  
34 16-11-330(A)), or attempted armed robbery (Section  
35 16-11-330(B)), the crime did not involve any criminal sexual  
36 conduct or an additional violent crime as defined in Section  
37 16-1-60, and the person is within three years of release from  
38 imprisonment. Except as provided in this subsection, ~~Nothing~~  
39 nothing in this section may be construed to allow a prisoner  
40 convicted of murder or a prisoner prohibited from participating in  
41 work release by another provision of law to be eligible for work  
42 release.”

1 SECTION 29. Section 24-13-650 of the 1976 Code is amended  
2 to read:

3  
4 “Section 24-13-650. (A) No offender committed to  
5 incarceration for a violent offense as defined in Section 16-1-60 or  
6 a ‘no parole offense’ as defined in Section 24-13-100 may be  
7 released back into the community in which the offender committed  
8 the offense under the work release program, except in those cases  
9 wherein, where applicable, the victim of the crime for which the  
10 offender is charged or the relatives of the victim who have applied  
11 for notification under Article 15, Chapter 3, Title 16 if the victim  
12 has died, the law enforcement agency which employed the  
13 arresting officer at the time of the arrest, and the circuit solicitor all  
14 agree to recommend that the offender be allowed to participate in  
15 the work release program in the community where the offense was  
16 committed. The victim or the victim’s nearest living relative, the  
17 law enforcement agency, and the solicitor, as referenced above,  
18 must affirm in writing that the offender be allowed to return to the  
19 community in which the offense was committed to participate in  
20 the work release program.

21 (B) An offender committed to incarceration for voluntary  
22 manslaughter (Section 16-3-50), kidnapping (Section 16-3-910),  
23 carjacking (Section 16-3-1075), burglary in the second degree  
24 (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or  
25 attempted armed robbery (Section 16-11-330(B)), may be released  
26 under the work release program back into the community in which  
27 the offender committed the offense, if the crime did not involve  
28 any criminal sexual conduct or an additional violent crime as  
29 defined in Section 16-1-60, the person is within three years of  
30 release from imprisonment, and the provisions of subsection (A)  
31 are fulfilled.”

32  
33 SECTION 30. Section 24-3-20(B)(2) of the 1976 Code is  
34 amended to read:

35  
36 “(2) the rates of pay and other conditions of employment will  
37 not be less than those paid and provided for work of similar nature  
38 in the locality in which the work is to be performed.

39 The department shall notify victims registered pursuant to  
40 Article 15, Chapter 3, Title 16 and the trial judge, solicitor, and  
41 sheriff of the county or the law enforcement agency of the  
42 jurisdiction where the offense occurred before releasing inmates on  
43 work release. However, the trial judge may waive his right to

1 receive the notification contained in this section by notifying the  
2 department of this waiver in writing. The department has the  
3 authority to deny release based upon opinions received from these  
4 persons, if any, as to the suitability of the release.

5 A prisoner's place of confinement may not be extended as  
6 permitted by this subsection ~~who~~ if the prisoner:

7 (a) is currently serving a sentence for or has a prior  
8 conviction for criminal sexual conduct in the first, second, or third  
9 degree; attempted criminal sexual conduct; assault with intent to  
10 commit criminal sexual conduct; criminal sexual conduct when  
11 the victim is his legal spouse; criminal sexual conduct with a  
12 minor; committing or attempting to commit a lewd act on a child;  
13 engaging a child for sexual performance; spousal sexual battery;  
14 ~~or a violent offense as defined in Section 16-1-60;~~ a harassment or  
15 stalking offense pursuant to Article 17, Chapter 3 of Title 16, or a  
16 burglary offense pursuant to Section 16-11-311 or 16-11-312(B);  
17 or

18 (b) is currently serving a sentence for a violent offense as  
19 defined in Section 16-1-60, except that a prisoner serving a  
20 sentence for kidnapping, pursuant to Section 16-3-910, voluntary  
21 manslaughter, pursuant to Section 16-3-50, armed robbery,  
22 pursuant to Section 16-11-330(A), attempted armed robbery,  
23 pursuant to Section 16-11-330(B), burglary in the second degree,  
24 pursuant to Section 16-11-312(B), or carjacking, pursuant to  
25 Section 16-3-1075 may be eligible to participate in the work  
26 release programs so long as the prisoner is within three years from  
27 the date of his release from incarceration, and the prisoner is not  
28 serving a sentence involving criminal sexual conduct or other  
29 violent crime, as classified under Section 16-1-60.

30 (3) A prisoner who is serving a sentence for a 'no parole  
31 offense' as defined in Section 24-13-100 and who is otherwise  
32 eligible for work release shall not have his place of confinement  
33 extended until he has served the minimum period of incarceration  
34 as set forth in Section 24-13-125."

35  
36 SECTION 31. Section 24-19-10 of the 1976 Code is amended to  
37 read:

38  
39 "Section 24-19-10. As used herein:

40 (a) 'Department' means the Department of Corrections.

41 (b) 'Division' means the Youthful Offender Division.

42 (c) 'Director' means the Director of the Department of  
43 Corrections.

1 (d) 'Youthful offender' means an offender who is:

2 (i) under seventeen years of age and has been bound over  
3 for proper criminal proceedings to the court of general sessions  
4 pursuant to Section 63-19-1210 for allegedly committing an  
5 offense that is not a violent crime, as defined in Section 16-1-60,  
6 and that is a misdemeanor, a Class D, Class E, or Class F felony,  
7 as defined in Section 16-1-20, or a felony which provides for a  
8 maximum term of imprisonment of fifteen years or less;~~or~~

9 (ii) seventeen but less than twenty-five years of age at the  
10 time of conviction for an offense that is not a violent crime, as  
11 defined in Section 16-1-60, and that is a misdemeanor, a Class D,  
12 Class E, or Class F felony, or a felony which provides for a  
13 maximum term of imprisonment of fifteen years or less;

14 (iii) under seventeen years of age and has been bound over  
15 for proper criminal proceedings to the court of general sessions  
16 pursuant to Section 63-19-1210 for allegedly committing burglary  
17 in the second degree (Section 16-11-312). The offender must  
18 receive and serve a minimum sentence of at least three years, no  
19 part of which may be suspended, and the person is not eligible for  
20 conditional release until the person has served the three-year  
21 minimum sentence;

22 (iv) seventeen but less than twenty-one years of age at the  
23 time of conviction for burglary in the second degree (Section  
24 16-11-312). The offender must receive and serve a minimum  
25 sentence of at least three years, no part of which may be  
26 suspended, and the person is not eligible for conditional release  
27 until the person has served the three-year minimum sentence;

28 (v) under seventeen years of age and has been bound over  
29 for proper criminal proceedings to the court of general sessions  
30 pursuant to Section 63-19-1210 for allegedly committing a lewd  
31 act upon a child pursuant to Section 16-15-140, and the alleged  
32 offense involved consensual sexual conduct with a person who was  
33 at least fourteen years of age at the time of the act; or

34 (vi) seventeen but less than twenty-five years of age at the  
35 time of conviction for committing a lewd act upon a child pursuant  
36 to Section 16-15-140, and the conviction resulted from consensual  
37 sexual conduct, provided the offender was eighteen years of age or  
38 less at the time of the act and the other person involved was at least  
39 fourteen years of age at the time of the act.

40 (e) 'Treatment' means corrective and preventive guidance and  
41 training designed to protect the public by correcting the antisocial  
42 tendencies of youthful offenders; this may also include vocational



1 and other training considered appropriate and necessary by the  
2 division.

3 (f) ‘Conviction’ means a judgment in a verdict or finding of  
4 guilty, plea of guilty, or plea of nolo contendere to a criminal  
5 charge where the imprisonment is at least one year, but excluding  
6 all offenses in which the maximum punishment provided by law is  
7 death or life imprisonment.”

8  
9 SECTION 32. Section 22-5-920(B) of the 1976 Code, as last  
10 amend by Act 36 of 2009, is further amended to read:

11  
12 “(B) Following a first offense conviction as a youthful offender  
13 for which a defendant is sentenced pursuant to the provisions of  
14 Chapter 19, Title 24, Youthful Offender Act, the defendant, after  
15 five years from the date of completion of his sentence, including  
16 probation and parole, may apply, or cause someone acting on his  
17 behalf to apply, to the circuit court for an order expunging the  
18 records of the arrest and conviction. However, this section does  
19 not apply to an offense involving the operation of a motor vehicle,  
20 to a violation of Title 50 or the regulations promulgated under it  
21 for which points are assessed, suspension provided for, or  
22 enhanced penalties for subsequent offenses authorized, to an  
23 offense classified as a violent crime in Section 16-1-60, or to an  
24 offense contained in Chapter 25, Title 16, except as otherwise  
25 provided in Section 16-25-30. If the defendant has had no other  
26 conviction during the five-year period following completion of his  
27 sentence, including probation and parole, for a first offense  
28 conviction as a youthful offender for which the defendant was  
29 sentenced pursuant to the provisions of Chapter 19, title 24,  
30 Youthful Offender Act, the circuit court may issue an order  
31 expunging the records. No person may have his records expunged  
32 under this section more than once. A person may have his record  
33 expunged even though the conviction occurred before the effective  
34 date of this section. A person eligible for a sentence pursuant to  
35 the provisions of Chapter 19, Title 24, Youthful Offender Act, and  
36 who is not sentenced pursuant to those provisions, is not eligible to  
37 have his record expunged pursuant to the provisions of this  
38 section.”

39  
40 SECTION 33. Section 24-19-110 of the 1976 Code, as last  
41 amended by an unnumbered Act of 2010 bearing ratification  
42 number R 140, is further amended by adding an appropriately  
43 lettered subsection to read:

1  
2 “( ) The division must notify a victim registered pursuant to  
3 Article 15, Chapter 3, Title 16 before conditionally releasing or  
4 unconditionally discharging a youthful offender. The division has  
5 the authority to deny conditional release and unconditional  
6 discharge based upon information received from the victim as to  
7 the suitability of the release.”

8  
9 SECTION 34. Section 24-19-120 of the 1976 Code is amended  
10 to read:

11  
12 “Section 24-19-120. (A) A youthful offender shall be  
13 released conditionally under supervision on or before the  
14 expiration of four years from the date of his conviction and shall  
15 be discharged unconditionally on or before six years from the date  
16 of his conviction.

17 (B) The division must notify a victim registered pursuant to  
18 Article 15, Chapter 3, Title 16 before conditionally releasing or  
19 unconditionally discharging a youthful offender.”

20  
21 SECTION 35. Section 14-1-213(A) of the 1976 Code, as added  
22 by Act 353 of 2008, is amended to read:

23  
24 “(A) In addition to all other assessments and surcharges required  
25 to be imposed by law, a ~~one hundred dollar~~ one hundred and fifty  
26 dollar surcharge is also levied on all fines, forfeitures,  
27 escheatments, or other monetary penalties imposed in general  
28 sessions court or in magistrates or municipal court for  
29 misdemeanor or felony drug offenses. No portion of the surcharge  
30 may be waived, reduced, or suspended.”

31  
32 SECTION 36. Section 44-53-160(4) of the 1976 Code is  
33 amended to read:

34  
35 “(4) If any substance is added, deleted, or rescheduled as a  
36 controlled substance under Federal law or regulation ~~and notice of~~  
37 ~~the designation is given to the Department,~~ the Department shall  
38 by rule, at its first regular or special meeting recommend that a  
39 ~~corresponding change in South Carolina law be made by the next~~  
40 ~~regular session of the General Assembly not less than thirty days~~  
41 ~~after publication in the Federal register of a~~ the final order  
42 designating a the substance as a controlled substance or  
43 rescheduling or deleting a the substance, ~~unless the Department~~

1 objects to the change. In that case, the Department shall publish  
2 the reasons for objection and afford all interested parties an  
3 opportunity to be heard. At the conclusion of the hearing, the  
4 Department shall announce its decision and shall notify the  
5 General Assembly in writing of the change in Federal law or  
6 regulations and of the Department's recommendation that a  
7 corresponding change in South Carolina law be made, or not be  
8 made, as the case may be.

9 If the Department does not object to the change of schedule, it  
10 shall by rule, at its first regular or special meeting after the final  
11 order by the Bureau or its successor agency is published in the  
12 Federal register, reschedule the substance into the appropriate  
13 schedule, such rule having force of law unless overturned by the  
14 General Assembly; in such case, no hearing need be given unless  
15 requested by an interested party. This rule issued by the  
16 Department shall be in substance identical with the order published  
17 in the Federal register effecting the change in Federal status of the  
18 substance. The Department shall notify the General Assembly in  
19 writing of the change in federal law or regulation and of the  
20 corresponding change in South Carolina law."

21  
22 SECTION 37. Section 44-53-370 of the 1976 Code, as last  
23 amended by Act 127 of 2005, is further amended to read:

24  
25 "Section 44-53-370. (a) Except as authorized by this article it  
26 shall be unlawful for any person:

27 (1) to manufacture, distribute, dispense, deliver, purchase,  
28 aid, abet, attempt, or conspire to manufacture, distribute, dispense,  
29 deliver, or purchase, or possess with the intent to manufacture,  
30 distribute, dispense, deliver, or purchase a controlled substance or  
31 a controlled substance analogue;

32 (2) to create, distribute, dispense, deliver, or purchase, or  
33 aid, abet, attempt, or conspire to create, distribute, dispense,  
34 deliver, or purchase, or possess with intent to distribute, dispense,  
35 deliver, or purchase a counterfeit substance.

36 (b) A person who violates subsection (a) with respect to:

37 (1) a controlled substance classified in Schedule I (b) and (c)  
38 which is a narcotic drug or lysergic acid diethylamide (LSD) and  
39 in Schedule II which is a narcotic drug is guilty of a felony and,  
40 upon conviction, for a first offense must be imprisoned not more  
41 than fifteen years or fined not more than twenty-five thousand  
42 dollars, or both. For a second offense, or if, in the case of a first  
43 conviction of violation of any provision of this subsection, the

1 offender previously has been convicted of a violation of the laws  
2 of the United States or of any state, territory, or district relating to  
3 narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic  
4 drugs, the offender must be imprisoned not less than five years nor  
5 more than thirty years, or fined not more than fifty thousand  
6 dollars, or both. For a third or subsequent offense, or if the  
7 offender previously has been convicted two or more times in the  
8 aggregate of a violation of the laws of the United States or of any  
9 state, territory, or district relating to narcotic drugs, marijuana,  
10 depressant, stimulant, or hallucinogenic drugs, the offender must  
11 be imprisoned not less than ~~fifteen~~ ten years nor more than thirty  
12 years, or fined not more than fifty thousand dollars, or both.  
13 ~~Except in the case of conviction for a first offense, the sentence~~  
14 ~~must not be suspended and probation must not be granted~~  
15 Notwithstanding any other provision of law, a person convicted  
16 and sentenced pursuant to this item for a first offense or second  
17 offense may have the sentence suspended and probation granted  
18 and is eligible for parole, supervised furlough, community  
19 supervision, work release, work credits, education credits, and  
20 good conduct credits. Notwithstanding any other provision of law,  
21 a person convicted and sentenced pursuant to this subsection for a  
22 third or subsequent offense in which all prior offenses were for  
23 possession of a controlled substance pursuant to subsections (c)  
24 and (d), may have the sentence suspended and probation granted  
25 and is eligible for parole, supervised furlough, community  
26 supervision, work release, work credits, education credits, and  
27 good conduct credits. In all other cases, the sentence must not be  
28 suspended nor probation granted;

29 (2) any other controlled substance classified in Schedule I,  
30 II, or III, flunitrazepam or a controlled substance analogue, is  
31 guilty of a felony and, upon conviction, for a first offense must be  
32 imprisoned not more than five years or fined not more than five  
33 thousand dollars, or both. For a second offense, or, if, in the case  
34 of a first conviction of violation of any provision of this  
35 subsection, the offender previously has been convicted of a  
36 violation of the laws of the United States or of any state, territory,  
37 or district relating to narcotic drugs, marijuana, depressant,  
38 stimulant, or hallucinogenic drugs, the offender is guilty of a  
39 felony and, upon conviction, must be imprisoned not more than ten  
40 years or fined not more than ten thousand dollars, or both. For a  
41 third or subsequent offense, or, if the offender previously has been  
42 convicted two or more times in the aggregate of a violation of the  
43 laws of the United States or of any state, territory, or district

1 relating to narcotic drugs, marijuana, depressant, stimulant, or  
2 hallucinogenic drugs, the offender is guilty of a felony and, upon  
3 conviction, must be imprisoned not less than five years nor more  
4 than twenty years, or fined not more than twenty thousand dollars,  
5 or both. ~~Except in the case of conviction for a first offense, the~~  
6 ~~sentence must not be suspended and probation must not be granted~~  
7 Notwithstanding any other provision of law, a person convicted  
8 and sentenced pursuant to this item for a first offense or second  
9 offense may have the sentence suspended and probation granted,  
10 and is eligible for parole, supervised furlough, community  
11 supervision, work release, work credits, education credits, and  
12 good conduct credits. Notwithstanding any other provision of law,  
13 a person convicted and sentenced pursuant to this subsection for a  
14 third or subsequent offense in which all prior offenses were for  
15 possession of a controlled substance pursuant to subsections (c)  
16 and (d), may have the sentence suspended and probation granted,  
17 and is eligible for parole, supervised furlough, community  
18 supervision, work release, work credits, education credits, and  
19 good conduct credits. In all other cases, the sentence must not be  
20 suspended nor probation granted;

21 (3) a substance classified in Schedule IV except for  
22 flunitrazepam is guilty of a misdemeanor and, upon conviction, for  
23 a first offense must be imprisoned not more than three years or  
24 fined not more than three thousand dollars, or both. In the case of  
25 second or subsequent offenses, the person is guilty of a felony and,  
26 upon conviction, must be imprisoned not more than five years or  
27 fined not more than six thousand dollars, or both. Notwithstanding  
28 any other provision of law, a person convicted and sentenced  
29 pursuant to this item for a first offense or second offense may have  
30 the sentence suspended and probation granted and is eligible for  
31 parole, supervised furlough, community supervision, work release,  
32 work credits, education credits, and good conduct credits.  
33 Notwithstanding any other provision of law, a person convicted  
34 and sentenced pursuant to this subsection for a third or subsequent  
35 offense in which all prior offenses were for possession of a  
36 controlled substance pursuant to subsections (c) and (d), may have  
37 the sentence suspended and probation granted and is eligible for  
38 parole, supervised furlough, community supervision, work release,  
39 work credits, education credits, and good conduct credits. In all  
40 other cases, the sentence must not be suspended nor probation  
41 granted;

42 (4) a substance classified in Schedule V is guilty of a  
43 misdemeanor and, upon conviction, for a first offense must be

1 imprisoned not more than one year or fined not more than one  
2 thousand dollars, or both. In the case of second or subsequent  
3 offenses, the sentence must be twice the first offense.  
4 Notwithstanding any other provision of law, a person convicted  
5 and sentenced pursuant to this item for a first offense or second  
6 offense may have the sentence suspended and probation granted  
7 and is eligible for parole, supervised furlough, community  
8 supervision, work release, work credits, education credits, and  
9 good conduct credits. Notwithstanding any other provision of law,  
10 a person convicted and sentenced pursuant to this subsection for a  
11 third or subsequent offense in which all prior offenses were for  
12 possession of a controlled substance pursuant to subsections (c)  
13 and (d), may have the sentence suspended and probation granted  
14 and is eligible for parole, supervised furlough, community  
15 supervision, work release, work credits, education credits, and  
16 good conduct credits. In all other cases, the sentence must not be  
17 suspended nor probation granted;

18 (c) It shall be unlawful for any person knowingly or  
19 intentionally to possess a controlled substance unless the substance  
20 was obtained directly from, or pursuant to a valid prescription or  
21 order of, a practitioner while acting in the course of his  
22 professional practice, or except as otherwise authorized by this  
23 article.

24 (d) A person who violates subsection (c) with respect to:

25 (1) a controlled substance classified in Schedule I (b) and (c)  
26 which is a narcotic drug or lysergic acid diethylamide (LSD) and  
27 in Schedule II which is a narcotic drug is guilty of a misdemeanor  
28 and, upon conviction, must be imprisoned not more than two years  
29 or fined not more than five thousand dollars, or both. For a second  
30 offense, the offender is guilty of a felony and, upon conviction,  
31 must be imprisoned not more than five years or fined not more  
32 than five thousand dollars, or both. For a third or subsequent  
33 offense, the offender is guilty of a felony and, upon conviction,  
34 must be imprisoned not more than five years or fined not more  
35 than ten thousand dollars, or both. Notwithstanding any other  
36 provision of law, a person convicted and sentenced pursuant to this  
37 item may have the sentence suspended and probation granted and  
38 is eligible for parole, supervised furlough, community supervision,  
39 work release, work credits, education credits, and good conduct  
40 credits;

41 (2) any other controlled substance classified in Schedules I  
42 through V is guilty of a misdemeanor and, upon conviction, must  
43 be imprisoned not more than six months or fined not more than

1 one thousand dollars, or both. For a second or subsequent offense,  
2 the offender is guilty of a misdemeanor and, upon conviction, must  
3 be imprisoned not more than one year or fined not more than two  
4 thousand dollars, or both, except as provided in subsection (d)(4).  
5 Notwithstanding any other provision of law, a person convicted  
6 and sentenced pursuant to this item may have the sentence  
7 suspended and probation granted and is eligible for parole,  
8 supervised furlough, community supervision, work release, work  
9 credits, education credits, and good conduct credits;

10 (3) cocaine is guilty of a misdemeanor and, upon conviction,  
11 must be imprisoned not more than three years or fined not more  
12 than five thousand dollars, or both. For a first offense, the court,  
13 upon approval of the solicitor, may require as part of a sentence,  
14 that the offender enter and successfully complete a drug treatment  
15 and rehabilitation program. For a second offense, the offender is  
16 guilty of a felony and, upon conviction, must be imprisoned not  
17 more than five years or fined not more than seven thousand five  
18 hundred dollars, or both. For a third or subsequent offense, the  
19 offender is guilty of a felony and, upon conviction, must be  
20 imprisoned not more than ten years or fined not more than twelve  
21 thousand five hundred dollars, or both. Notwithstanding any other  
22 provision of law, a person convicted and sentenced pursuant to this  
23 item may have the sentence suspended and probation granted and  
24 is eligible for parole, supervised furlough, community supervision,  
25 work release, work credits, education credits, and good conduct  
26 credits;

27 (4) possession of more than: ~~ten grains~~ one gram of cocaine,  
28 one hundred milligrams of alpha- or beta-eucaine, four grains of  
29 opium, four grains of morphine, two grains of heroin, one hundred  
30 milligrams of isonipecaine, twenty-eight grams or one ounce of  
31 marijuana, ten grams of hashish, fifty micrograms of lysergic acid  
32 diethylamide (LSD) or its compounds, fifteen tablets, capsules,  
33 dosage units, or the equivalent quantity of 3,  
34 4-methylenedioxymethamphetamine (MDMA), or twenty  
35 milliliters or milligrams of gamma hydroxybutyric acid or a  
36 controlled substance analogue of gamma hydroxybutyric acid, is  
37 prima facie guilty of violation of subsection (a) of this section. A  
38 person who violates this subsection with respect to twenty- eight  
39 grams or one ounce or less of marijuana or ten grams or less of  
40 hashish is guilty of a misdemeanor and, upon conviction, must be  
41 imprisoned not more than thirty days or fined not less than one  
42 hundred dollars nor more than two hundred dollars. Conditional  
43 discharge may be granted in accordance with the provisions of

1 Section 44-53-450 upon approval by the circuit solicitor to the  
2 magistrate or municipal judge. As a part of a sentence, a  
3 magistrate or municipal judge may require attendance at an  
4 approved drug abuse program. Persons charged with the offense  
5 of possession of marijuana or hashish under this item may be  
6 permitted to enter the pretrial intervention program under the  
7 provisions of Sections 17-22-10 through 17-22-160. For a second  
8 or subsequent offense, the offender is guilty of a misdemeanor and,  
9 upon conviction, must be imprisoned not more than one year or  
10 fined not less than two hundred dollars nor more than one thousand  
11 dollars, or both. Notwithstanding any other provision of law, a  
12 person convicted and sentenced pursuant to this item may have the  
13 sentence suspended and probation granted and is eligible for  
14 parole, supervised furlough, community supervision, work release,  
15 work credits, education credits, and good conduct credits.

16 When a person is charged under this subsection for possession  
17 of controlled substances, bail shall not exceed the amount of the  
18 fine and the assessment provided pursuant to Section 14-1-206,  
19 14-1-207, or 14-1-208, whichever is applicable. A person charged  
20 under this item for a first offense for possession of controlled  
21 substances may forfeit bail by nonappearance. Upon forfeiture in  
22 general sessions court, the fine portion of the bail must be  
23 distributed as provided in Section 14-1-205. The assessment  
24 portion of the bail must be distributed as provided in Section  
25 14-1-206, 14-1-207, or 14-1-208, whichever is applicable.

26 (e) Any person who knowingly sells, manufactures, cultivates,  
27 delivers, purchases, or brings into this State, or who provides  
28 financial assistance or otherwise aids, abets, attempts, or conspires  
29 to sell, manufacture, cultivate, deliver, purchase, or bring into this  
30 State, or who is knowingly in actual or constructive possession or  
31 who knowingly attempts to become in actual or constructive  
32 possession of:

33 (1) ten pounds or more of marijuana is guilty of a felony  
34 which is known as 'trafficking in marijuana' and, upon conviction,  
35 must be punished as follows if the quantity involved is:

36 (a) ten pounds or more, but less than one hundred pounds:

37 1. for a first offense, a term of imprisonment of not less  
38 than one year nor more than ten years, no part of which may be  
39 suspended nor probation granted, and a fine of ten thousand  
40 dollars;

41 2. for a second offense, a term of imprisonment of not  
42 less than five years nor more than twenty years, no part of which



1 may be suspended nor probation granted, and a fine of fifteen  
2 thousand dollars;

3 3. for a third or subsequent offense, a mandatory term of  
4 imprisonment of twenty-five years, no part of which may be  
5 suspended nor probation granted, and a fine of twenty-five  
6 thousand dollars;

7 (b) one hundred pounds or more, but less than two  
8 thousand pounds, or one hundred to one thousand marijuana plants  
9 regardless of weight, a mandatory term of imprisonment of  
10 twenty-five years, no part of which may be suspended nor  
11 probation granted, and a fine of twenty-five thousand dollars;

12 (c) two thousand pounds or more, but less than ten  
13 thousand pounds, or more than one thousand marijuana plants, but  
14 less than ten thousand marijuana plants regardless of weight, a  
15 mandatory term of imprisonment of twenty-five years, no part of  
16 which may be suspended nor probation granted, and a fine of fifty  
17 thousand dollars;

18 (d) ten thousand pounds or more, or ten thousand  
19 marijuana plants, or more than ten thousand marijuana plants  
20 regardless of weight, a term of imprisonment of not less than  
21 twenty-five years nor more than thirty years with a mandatory  
22 minimum term of imprisonment of twenty-five years, no part of  
23 which may be suspended nor probation granted, and a fine of two  
24 hundred thousand dollars;

25 (2) ten grams or more of cocaine or any mixtures containing  
26 cocaine, as provided in Section 44-53-210(b)(4), is guilty of a  
27 felony which is known as 'trafficking in cocaine' and, upon  
28 conviction, must be punished as follows if the quantity involved is:

29 (a) ten grams or more, but less than twenty-eight grams:

30 1. for a first offense, a term of imprisonment of not less  
31 than three years nor more than ten years, no part of which may be  
32 suspended nor probation granted, and a fine of twenty-five  
33 thousand dollars;

34 2. for a second offense, a term of imprisonment of not  
35 less than five years nor more than thirty years, no part of which  
36 may be suspended nor probation granted, and a fine of fifty  
37 thousand dollars;

38 3. for a third or subsequent offense, a mandatory  
39 minimum term of imprisonment of not less than twenty-five years  
40 nor more than thirty years, no part of which may be suspended nor  
41 probation granted, and a fine of fifty thousand dollars;

42 (b) twenty-eight grams or more, but less than one hundred  
43 grams:

1           1. for a first offense, a term of imprisonment of not less  
2 than seven years nor more than twenty-five years, no part of which  
3 may be suspended nor probation granted, and a fine of fifty  
4 thousand dollars;

5           2. for a second offense, a term of imprisonment of not  
6 less than seven years nor more than thirty years, no part of which  
7 may be suspended nor probation granted, and a fine of fifty  
8 thousand dollars;

9           3. for a third or subsequent offense, a mandatory  
10 minimum term of imprisonment of not less than twenty-five years  
11 and not more than thirty years, no part of which may be suspended  
12 nor probation granted, and a fine of fifty thousand dollars;

13           (c) one hundred grams or more, but less than two hundred  
14 grams, a mandatory term of imprisonment of twenty-five years, no  
15 part of which may be suspended nor probation granted, and a fine  
16 of fifty thousand dollars;

17           (d) two hundred grams or more, but less than four hundred  
18 grams, a mandatory term of imprisonment of twenty-five years, no  
19 part of which may be suspended nor probation granted, and a fine  
20 of one hundred thousand dollars;

21           (e) four hundred grams or more, a term of imprisonment  
22 of not less than twenty-five years nor more than thirty years with a  
23 mandatory minimum term of imprisonment of twenty-five years,  
24 no part of which may be suspended nor probation granted, and a  
25 fine of two hundred thousand dollars;

26           (3) four grams or more of any morphine, opium, salt, isomer,  
27 or salt of an isomer thereof, including heroin, as described in  
28 Section 44-53-190 or 44-53-210, or four grams or more of any  
29 mixture containing any of these substances, is guilty of a felony  
30 which is known as 'trafficking in illegal drugs' and, upon  
31 conviction, must be punished as follows if the quantity involved is:

32           (a) four grams or more, but less than fourteen grams:

33           1. for a first offense, a term of imprisonment of not less  
34 than seven years nor more than twenty-five years, no part of which  
35 may be suspended nor probation granted, and a fine of fifty  
36 thousand dollars;

37           2. for a second or subsequent offense, a mandatory  
38 minimum term of imprisonment of twenty-five years, no part of  
39 which may be suspended nor probation granted, and a fine of one  
40 hundred thousand dollars;

41           (b) fourteen grams or more but less than twenty-eight  
42 grams, a mandatory term of imprisonment of twenty-five years, no

1 part of which may be suspended nor probation granted, and a fine  
2 of two hundred thousand dollars;

3 (c) twenty-eight grams or more, a mandatory term of  
4 imprisonment of not less than twenty-five years nor more than  
5 forty years, no part of which may be suspended nor probation  
6 granted, and a fine of two hundred thousand dollars;

7 (4) fifteen grams or more of methaqualone is guilty of a  
8 felony which is known as 'trafficking in methaqualone' and, upon  
9 conviction, must be punished as follows if the quantity involved is:

10 (a) fifteen grams but less than one hundred fifty grams:

11 1. for a first offense, a term of imprisonment of not less  
12 than one year nor more than ten years, no part of which may be  
13 suspended nor probation granted, and a fine of ten thousand  
14 dollars;

15 2. for a second or subsequent offense, a mandatory term  
16 of imprisonment of twenty-five years, no part of which may be  
17 suspended nor probation granted, and a fine of twenty-five  
18 thousand dollars;

19 (b) one hundred fifty grams but less than fifteen hundred  
20 grams, a mandatory term of imprisonment of twenty-five years, no  
21 part of which may be suspended nor probation granted, and a fine  
22 of twenty-five thousand dollars;

23 (c) fifteen hundred grams but less than fifteen kilograms,  
24 a mandatory term of imprisonment of twenty-five years, no part of  
25 which may be suspended nor probation granted, and a fine of fifty  
26 thousand dollars;

27 (d) fifteen kilograms or more, a term of imprisonment of  
28 not less than twenty-five years nor more than thirty years with a  
29 mandatory minimum term of imprisonment of twenty-five years,  
30 no part of which may be suspended nor probation granted, and a  
31 fine of two hundred thousand dollars;

32 (5) one hundred tablets, capsules, dosage units, or the  
33 equivalent quantity, or more of lysergic acid diethylamide (LSD) is  
34 guilty of a felony which is known as 'trafficking in LSD' and,  
35 upon conviction, must be punished as follows if the quantity  
36 involved is:

37 (a) one hundred dosage units or the equivalent quantity, or  
38 more, but less than five hundred dosage units or the equivalent  
39 quantity:

40 1. for a first offense, a term of imprisonment of not less  
41 than three years nor more than ten years, no part of which may be  
42 suspended nor probation granted, and a fine of twenty thousand  
43 dollars;

1           2. for a second offense, a term of imprisonment of not  
2 less than five years nor more than thirty years, no part of which  
3 may be suspended or probation granted, and a fine of forty  
4 thousand dollars;

5           3. for a third or subsequent offense, a mandatory  
6 minimum term of imprisonment of not less than twenty-five years  
7 nor more than thirty years, no part of which may be suspended nor  
8 probation granted, and a fine of fifty thousand dollars;

9           (b) five hundred dosage units or the equivalent quantity,  
10 or more, but less than one thousand dosage units or the equivalent  
11 quantity;

12           1. for a first offense, a term of imprisonment of not less  
13 than seven years nor more than twenty-five years, no part of which  
14 may be suspended nor probation granted, and a fine of fifty  
15 thousand dollars;

16           2. for a second offense, a term of imprisonment of not  
17 less than seven years nor more than thirty years, no part of which  
18 may be suspended nor probation granted, and a fine of fifty  
19 thousand dollars;

20           3. for a third or subsequent offense, a mandatory  
21 minimum term of imprisonment of not less than twenty-five years  
22 and not more than thirty years, no part of which may be suspended  
23 nor probation granted, and a fine of fifty thousand dollars;

24           (c) one thousand dosage units or the equivalent quantity,  
25 or more, a mandatory term of imprisonment of twenty-five years,  
26 no part of which may be suspended nor probation granted, and a  
27 fine of one hundred thousand dollars;

28           (6) one gram or more of flunitrazepam is guilty of a felony  
29 which is known as 'trafficking in flunitrazepam' and, upon  
30 conviction, must be punished as follows if the quantity involved is:

31           (a) one gram but less than one hundred grams;

32           1. for a first offense a term of imprisonment of not less  
33 than one year nor more than ten years, no part of which may be  
34 suspended nor probation granted, and a fine of ten thousand  
35 dollars;

36           2. for a second or subsequent offense, a mandatory term  
37 of imprisonment of twenty-five years, no part of which may be  
38 suspended nor probation granted, and a fine of twenty-five  
39 thousand dollars;

40           (b) one hundred grams but less than one thousand grams,  
41 a mandatory term of imprisonment of twenty years, no part of  
42 which may be suspended nor probation granted, and a fine of  
43 twenty-five thousand dollars;

1 (c) one thousand grams but less than five kilograms, a  
2 mandatory term of imprisonment of twenty-five years, no part of  
3 which may be suspended nor probation granted, and a fine of fifty  
4 thousand dollars;

5 (d) five kilograms or more, a term of imprisonment of not  
6 less than twenty-five years, nor more than thirty years, with a  
7 mandatory minimum term of imprisonment of twenty-five years,  
8 no part of which may be suspended nor probation granted, and a  
9 fine of two hundred thousand dollars;

10 (7) fifty milliliters or milligrams or more of gamma  
11 hydroxybutyric acid or a controlled substance analogue of gamma  
12 hydroxybutyric acid is guilty of a felony which is known as  
13 'trafficking in gamma hydroxybutyric acid' and, upon conviction,  
14 must be punished as follows:

15 (a) for a first offense, a term of imprisonment of not less  
16 than one year nor more than ten years, no part of which may be  
17 suspended nor probation granted, and a fine of ten thousand  
18 dollars;

19 (b) for a second or subsequent offense, a mandatory term  
20 of imprisonment of twenty-five years, no part of which may be  
21 suspended nor probation granted, and a fine of twenty-five  
22 thousand dollars.

23 A person convicted and sentenced under this subsection to a  
24 mandatory term of imprisonment of twenty-five years, a  
25 mandatory minimum term of imprisonment of twenty-five years,  
26 or a mandatory minimum term of imprisonment of not less than  
27 twenty-five years nor more than thirty years is not eligible for  
28 parole, extended work release, as provided in Section 24-13-610,  
29 or supervised furlough, as provided in Section 24-13-710.  
30 Notwithstanding Section 44-53-420, a person convicted of  
31 conspiracy pursuant to this subsection must be sentenced as  
32 provided in this section with a full sentence or punishment and not  
33 one-half of the sentence or punishment prescribed for the offense.

34 The weight of any controlled substance in this subsection  
35 includes the substance in pure form or any compound or mixture of  
36 the substance.

37 The offense of possession with intent to distribute described in  
38 Section 44-53-370(a) is a lesser included offense to the offenses of  
39 trafficking based upon possession described in this subsection.

40 (8) one hundred tablets, capsules, dosage units, or the  
41 equivalent quantity, or more of 3,  
42 4-methalenedioxymethamphetamine (MDMA) is guilty of a felony

1 which is known as ‘trafficking in MDMA or ecstasy’ and, upon  
2 conviction, must be punished as follows if the quantity involved is:

3 (a) one hundred dosage units or the equivalent quantity, or  
4 more, but less than five hundred dosage units or the equivalent  
5 quantity:

6 (i) for a first offense, a term of imprisonment of not  
7 less than three years nor more than ten years, no part of which may  
8 be suspended nor probation granted, and a fine of twenty thousand  
9 dollars;

10 (ii) for a second offense, a term of imprisonment of not  
11 less than five years nor more than thirty years, no part of which  
12 may be suspended or probation granted, and a fine of forty  
13 thousand dollars;

14 (iii) for a third or subsequent offense, a mandatory  
15 minimum term of imprisonment of not less than twenty-five years  
16 nor more than thirty years, no part of which may be suspended nor  
17 probation granted, and a fine of fifty thousand dollars;

18 (b) five hundred dosage units or the equivalent quantity,  
19 or more, but less than one thousand dosage units or the equivalent  
20 quantity:

21 (i) for a first offense, a term of imprisonment of not  
22 less than seven years nor more than twenty-five years, no part of  
23 which may be suspended nor probation granted, and a fine of fifty  
24 thousand dollars;

25 (ii) for a second offense, a term of imprisonment of not  
26 less than seven years nor more than thirty years, no part of which  
27 may be suspended nor probation granted, and a fine of fifty  
28 thousand dollars;

29 (iii) for a third or subsequent offense, a mandatory  
30 minimum term of imprisonment of not less than twenty-five years  
31 and not more than thirty years, no part of which may be suspended  
32 nor probation granted, and a fine of fifty thousand dollars;

33 (c) one thousand dosage units or the equivalent quantity,  
34 or more, a mandatory term of imprisonment of twenty-five years,  
35 no part of which may be suspended nor probation granted, and a  
36 fine of one hundred thousand dollars.

37 (f) It shall be unlawful for a person to administer, distribute,  
38 dispense, deliver, or aid, abet, attempt, or conspire to administer,  
39 distribute, dispense, or deliver a controlled substance or gamma  
40 hydroxy butyrate to an individual with the intent to commit one of  
41 the following crimes against that individual:

42 (1) kidnapping, Section 16-3-910;

1 (2) criminal sexual conduct in the first, second, or third  
2 degree, Sections 16-3-652, 16-3-653, and 16-3-654;

3 (3) criminal sexual conduct with a minor in the first or  
4 second degree, Section 16-3-655;

5 (4) criminal sexual conduct where victim is legal spouse  
6 (separated), Section 16-3-658;

7 (5) spousal sexual battery, Section 16-3-615;

8 (6) engaging a child for a sexual performance, Section  
9 16-3-810;

10 (7) committing lewd act upon child under sixteen, Section  
11 16-15-140;

12 (8) petit larceny, Section 16-13-30 (A); or

13 (9) grand larceny, Section 16-13-30 (B).

14 (g) A person who violates subsection (f) with respect to:

15 (1) a controlled substance classified in Schedule I (b) or (c)  
16 which is a narcotic drug or lysergic acid diethylamide (LSD), or in  
17 Schedule II which is a narcotic drug is guilty of a felony and, upon  
18 conviction, must be:

19 (a) for a first offense, imprisoned not more than twenty  
20 years or fined not more than thirty thousand dollars, or both;

21 (b) for a second offense, or if in the case of a first  
22 conviction of a violation of any provision of this subsection, the  
23 offender previously has been convicted of a violation of the laws  
24 of the United States or of any state, territory, or district relating to  
25 narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic  
26 drugs, imprisoned not less than five years nor more than thirty  
27 years, or fined not more than fifty thousand dollars, or both;

28 (c) for a third or subsequent offense, or if the offender  
29 previously has been convicted two or more times in the aggregate  
30 of a violation of the laws of the United States or of any state,  
31 territory, or district relating to narcotic drugs, marijuana,  
32 depressant, stimulant, or hallucinogenic drugs, imprisoned not less  
33 than fifteen years nor more than thirty years, or fined not more  
34 than fifty thousand dollars, or both.

35 Except in the case of conviction for a first offense, the sentence  
36 in this item must not be suspended and probation must not be  
37 granted;

38 (2) any other controlled substance or gamma hydroxy  
39 butyrate is guilty of a felony and, upon conviction, must be:

40 (a) for a first offense, imprisoned not more than fifteen  
41 years or fined not more than twenty-five thousand dollars, or both;

42 (b) for a second offense, or if in the case of a first  
43 conviction of a violation of any provision of this subsection, the

1 offender previously has been convicted of a violation of the laws  
2 of the United States or of any state, territory, or district relating to  
3 narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic  
4 drugs, imprisoned not more than twenty years or fined not more  
5 than thirty thousand dollars, or both;

6 (c) for a third or subsequent offense, or if the offender  
7 previously has been convicted two or more times in the aggregate  
8 of a violation of the laws of the United States or of any state,  
9 territory, or district relating to narcotic drugs, marijuana,  
10 depressant, stimulant, or hallucinogenic drugs, imprisoned not less  
11 than five years nor more than twenty-five years, or fined not more  
12 than forty thousand dollars, or both.

13 Except in the case of conviction for a first offense, the sentence  
14 in this item must not be suspended and probation must not be  
15 granted.”

16  
17 SECTION 38. Section 44-53-375 of the 1976 Code, as last  
18 amended by Act 127 of 2005, is further amended to read:

19  
20 “Section 44-53-375. (A) A person possessing ~~or attempting to~~  
21 ~~possess~~ less than one gram of methamphetamine or cocaine base,  
22 as defined in Section 44-53-110, is guilty of a misdemeanor and,  
23 upon conviction for a first offense, must be imprisoned not more  
24 than three years or fined not more than five thousand dollars, or  
25 both. For a first offense the court, upon approval of the solicitor,  
26 may require as part of a sentence, that the offender enter and  
27 successfully complete a drug treatment and rehabilitation program.  
28 For a second offense, the offender is guilty of a felony and, upon  
29 conviction, must be imprisoned not more than five years or fined  
30 not more than seven thousand five hundred dollars, or both. For a  
31 third or subsequent offense, the offender is guilty of a felony and,  
32 upon conviction, must be imprisoned not more than ten years or  
33 fined not more than twelve thousand five hundred dollars, or both.  
34 Notwithstanding any other provision of law, a person convicted  
35 and sentenced pursuant to this subsection may have the sentence  
36 suspended and probation granted and is eligible for parole,  
37 supervised furlough, community supervision, work release, work  
38 credits, education credits, and good conduct credits.

39 (B) A person who manufactures, distributes, dispenses,  
40 delivers, purchases, or otherwise aids, abets, attempts, or conspires  
41 to manufacture, distribute, dispense, deliver, or purchase, or  
42 possesses with intent to distribute, dispense, or deliver



1 methamphetamine or cocaine base, in violation of the provisions of  
2 Section 44-53-370, is guilty of a felony and, upon conviction:

3 (1) for a first offense, must be sentenced to a term of  
4 imprisonment of not more than fifteen years or fined not more than  
5 twenty-five thousand dollars, or both;

6 (2) for a second offense or if, in the case of a first conviction  
7 of a violation of this section, the offender has been convicted of  
8 any of the laws of the United States or of any state, territory, or  
9 district relating to narcotic drugs, marijuana, depressant, stimulant,  
10 or hallucinogenic drugs, the offender must be imprisoned for not  
11 less than five years nor more than thirty years, or fined not more  
12 than fifty thousand dollars, or both;

13 (3) for a third or subsequent offense or if the offender has  
14 been convicted two or more times in the aggregate of any violation  
15 of the laws of the United States or of any state, territory, or district  
16 relating to narcotic drugs, marijuana, depressant, stimulant, or  
17 hallucinogenic drugs, the offender must be imprisoned for not less  
18 than ~~fifteen~~ ten years nor more than thirty years, or fined not more  
19 than fifty thousand dollars, or both.

20 Possession of one or more grams of methamphetamine or  
21 cocaine base is prima facie evidence of a violation of this  
22 subsection. Notwithstanding any other provision of law, a person  
23 convicted and sentenced pursuant to this subsection for a first  
24 offense or second offense may have the sentence suspended and  
25 probation granted, and is eligible for parole, supervised furlough,  
26 community supervision, work release, work credits, education  
27 credits, and good conduct credits. Notwithstanding any other  
28 provision of law, a person convicted and sentenced pursuant to this  
29 subsection for a third or subsequent offense in which all prior  
30 offenses were for possession of a controlled substance pursuant to  
31 subsection (A), may have the sentence suspended and probation  
32 granted and is eligible for parole, supervised furlough, community  
33 supervision, work release, work credits, education credits, and  
34 good conduct credits. In all other cases, the sentence must not be  
35 suspended nor probation granted.

36 (C) A person who knowingly sells, manufactures, delivers,  
37 purchases, or brings into this State, or who provides financial  
38 assistance or otherwise aids, abets, attempts, or conspires to sell,  
39 manufacture, deliver, purchase, or bring into this State, or who is  
40 knowingly in actual or constructive possession or who knowingly  
41 attempts to become in actual or constructive possession of ten  
42 grams or more of methamphetamine or cocaine base, as defined  
43 and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or

1 44-53-210(d)(2), is guilty of a felony which is known as  
2 'trafficking in methamphetamine or cocaine base' and, upon  
3 conviction, must be punished as follows if the quantity involved is:

4 (1) ten grams or more, but less than twenty-eight grams:

5 (a) for a first offense, a term of imprisonment of not less  
6 than three years nor more than ten years, no part of which may be  
7 suspended nor probation granted, and a fine of twenty-five  
8 thousand dollars;

9 (b) for a second offense, a term of imprisonment of not  
10 less than five years nor more than thirty years, no part of which  
11 may be suspended nor probation granted, and a fine of fifty  
12 thousand dollars;

13 (c) for a third or subsequent offense, a mandatory  
14 minimum term of imprisonment of not less than twenty-five years  
15 nor more than thirty years, no part of which may be suspended nor  
16 probation granted, and a fine of fifty thousand dollars;

17 (2) twenty-eight grams or more, but less than one hundred  
18 grams:

19 (a) for a first offense, a term of imprisonment of not less  
20 than seven years nor more than twenty-five years, no part of which  
21 may be suspended nor probation granted, and a fine of fifty  
22 thousand dollars;

23 (b) for a second offense, a term of imprisonment of not  
24 less than seven years nor more than thirty years, no part of which  
25 may be suspended nor probation granted, and a fine of fifty  
26 thousand dollars;

27 (c) for a third or subsequent offense, a mandatory  
28 minimum term of imprisonment of not less than twenty-five years  
29 and not more than thirty years, no part of which may be suspended  
30 nor probation granted, and a fine of fifty thousand dollars;

31 (3) one hundred grams or more, but less than two hundred  
32 grams, a mandatory term of imprisonment of twenty-five years, no  
33 part of which may be suspended nor probation granted, and a fine  
34 of fifty thousand dollars;

35 (4) two hundred grams or more, but less than four hundred  
36 grams, a mandatory term of imprisonment of twenty-five years, no  
37 part of which may be suspended nor probation granted, and a fine  
38 of one hundred thousand dollars;

39 (5) four hundred grams or more, a term of imprisonment of  
40 not less than twenty-five years nor more than thirty years with a  
41 mandatory minimum term of imprisonment of twenty-five years,  
42 no part of which may be suspended nor probation granted, and a  
43 fine of two hundred thousand dollars.

1 (D) Possession of equipment or paraphernalia used in the  
2 manufacture of cocaine, cocaine base, or methamphetamine is  
3 prima facie evidence of intent to manufacture.

4 (E)(1) It is unlawful for any person, other than a manufacturer,  
5 practitioner, dispenser, distributor, or retailer to knowingly possess  
6 any product that contains ~~twelve~~ nine grams or more of ephedrine,  
7 pseudoephedrine, or phenylpropanolamine, their salts, isomers, or  
8 salts of isomers, or a combination of any of these substances. A  
9 person who violates this subsection is guilty of a felony known as  
10 'trafficking in ephedrine, pseudoephedrine, or  
11 phenylpropanolamine, their salts, isomers, or salts of isomers, or a  
12 combination of any of these substances' and, upon conviction,  
13 must be punished as follows if the quantity involved is:

14 (a) ~~twelve~~ nine grams or more, but less than twenty-eight  
15 grams:

16 (i) for a first offense, a term of imprisonment of not  
17 ~~less than three years nor~~ more than ten years, no part of which may  
18 be suspended nor probation granted, and a fine of twenty-five  
19 thousand dollars;

20 (ii) for a second offense, a term of imprisonment of not  
21 less than five years nor more than thirty years, no part of which  
22 may be suspended nor probation granted, and a fine of fifty  
23 thousand dollars;

24 (iii) for a third or subsequent offense, a mandatory  
25 minimum term of imprisonment of not less than twenty-five years  
26 nor more than thirty years, no part of which may be suspended nor  
27 probation granted, and a fine of fifty thousand dollars;

28 (b) twenty-eight grams or more, but less than one hundred  
29 grams:

30 (i) for a first offense, a term of imprisonment of not  
31 less than seven years nor more than twenty-five years, no part of  
32 which may be suspended nor probation granted, and a fine of fifty  
33 thousand dollars;

34 (ii) for a second offense, a term of imprisonment of not  
35 less than seven years nor more than thirty years, no part of which  
36 may be suspended nor probation granted, and a fine of fifty  
37 thousand dollars;

38 (iii) for a third or subsequent offense, a mandatory  
39 minimum term of imprisonment of not less than twenty-five years  
40 and not more than thirty years, no part of which may be suspended  
41 nor probation granted, and a fine of fifty thousand dollars;

42 (c) one hundred grams or more, but less than two hundred  
43 grams, a mandatory term of imprisonment of twenty-five years, no

1 part of which may be suspended nor probation granted, and a fine  
2 of fifty thousand dollars;

3 (d) two hundred grams or more, but less than four hundred  
4 grams, a mandatory term of imprisonment of twenty-five years, no  
5 part of which may be suspended nor probation granted, and a fine  
6 of one hundred thousand dollars;

7 (e) four hundred grams or more, a term of imprisonment  
8 of not less than twenty-five years nor more than thirty years with a  
9 mandatory minimum term of imprisonment of twenty-five years,  
10 no part of which may be suspended nor probation granted, and a  
11 fine of two hundred thousand dollars.

12 (2) This subsection does not apply to:

13 (a) a consumer who possesses products:

14 (i) containing ephedrine, pseudoephedrine, or  
15 phenylpropanolamine in a manner consistent with typical  
16 medicinal or household use, as indicated by storage location, and  
17 possession of the products in a variety of strengths, brands, types,  
18 purposes, and expiration dates; or

19 (ii) for agricultural use containing anhydrous ammonia  
20 if the consumer has reformulated the anhydrous ammonia by  
21 means of additive so as effectively to prevent the conversion of the  
22 active ingredient into methamphetamine, its salts, isomers, salts of  
23 isomers, or its precursors, or the precursors' salts, isomers, or salts  
24 of isomers, or a combination of any of these substances; or

25 (b) products labeled for pediatric use pursuant to federal  
26 regulations and according to label instructions primarily intended  
27 for administration to children under twelve years of age; or

28 (c) products that the Drug Enforcement Administration  
29 and the Department of Health and Environmental Control, upon  
30 application of a manufacturer, exempts because the product is  
31 formulated in such a way as to effectively prevent the conversion  
32 of the active ingredient into methamphetamine, its salts, isomers,  
33 salts of isomers, or its precursors, or the precursors' salts, isomers,  
34 or salts of isomers, or a combination of any of these substances.

35 (3) This subsection preempts all local ordinances or  
36 regulations governing the possession of any product that contains  
37 ephedrine, pseudoephedrine, or phenylpropanolamine.

38 (F) ~~Except for a first offense, as provided in subsection (A)~~  
39 ~~of this section, sentences~~ Sentences for violation of the provisions  
40 ~~of this section~~ subsections (C) or (E) may not be suspended and  
41 probation may not be granted. A person convicted and sentenced  
42 ~~under this subsection~~ subsections (C) or (E) to a mandatory term of  
43 imprisonment of twenty-five years, a mandatory minimum term of

1 imprisonment of twenty-five years, or a mandatory minimum term  
2 of imprisonment of not less than twenty-five years nor more than  
3 thirty years is not eligible for parole, extended work release as  
4 provided in Section 24-13-610, or supervised furlough as provided  
5 in Section 24-13-710.

6 (G) A person eighteen years of age or older may be charged  
7 with unlawful conduct toward a child pursuant to Section 63-5-70,  
8 if a child was present at any time during the unlawful  
9 manufacturing of methamphetamine.”

10  
11 SECTION 39. Section 44-53-445 of the 1976 Code is amended  
12 to read:

13  
14 “Section 44-53-445. (A) It is a separate criminal offense for a  
15 person to distribute, sell, purchase, manufacture, or to unlawfully  
16 possess with intent to distribute, a controlled substance while in,  
17 on, or within a one-half mile radius of the grounds of a public or  
18 private elementary, middle, or secondary school; a public  
19 playground or park; a public vocational or trade school or technical  
20 educational center; or a public or private college or university.

21 (B) For a person to be convicted of an offense pursuant to  
22 subsection (A), the person must:

23 (1) have knowledge that that he is in, on, or within a  
24 one-half mile radius of the grounds of a public or private  
25 elementary, middle, or secondary school; a public playground or  
26 park; a public vocational or trade school or technical educational  
27 center; or a public or private college or university; and

28 (2) actually distribute, sell, purchase, manufacture, or  
29 unlawfully possess with intent to distribute, the controlled  
30 substance within a one-half mile radius of the grounds of a public  
31 or private elementary, middle, or secondary school; a public  
32 playground or park; a public vocational or trade school or technical  
33 educational center; or a public or private college or university.

34 (C) A person must not be convicted of an offense pursuant to  
35 subsection (A) if the person is stopped by a law enforcement  
36 officer for the controlled substance offense within a one-half mile  
37 radius of the grounds of a public or private elementary, middle, or  
38 secondary school; a public playground or park; a public vocational  
39 or trade school or technical educational center; or a public or  
40 private college or university, but did not actually commit the  
41 controlled substance offense within a one-half mile radius of the  
42 grounds of a public or private elementary, middle, or secondary  
43 school; a public playground or park; a public vocational or trade

1 school or technical educational center; or a public or private  
2 college or university.

3 ~~(B)(1)(D)(1)~~ A person who violates the provisions of this  
4 section is guilty of a felony and, upon conviction, must be fined  
5 not more than ten thousand dollars, or imprisoned not more than  
6 ten years, or both.

7 ~~(2) When a violation involves the distribution, sale,~~  
8 ~~manufacture, or possession with intent to distribute crack cocaine,~~  
9 ~~the person is guilty of a felony and, upon conviction, must be fined~~  
10 ~~not less than ten thousand dollars and imprisoned not less than ten~~  
11 ~~nor more than fifteen years.~~

12 ~~(3)~~ When a violation involves only the purchase of a  
13 controlled substance, ~~including crack cocaine,~~ the person is guilty  
14 of a misdemeanor and, upon conviction, must be fined not more  
15 than one thousand dollars or imprisoned not more than one year, or  
16 both.

17 ~~(E)~~For the purpose of creating inferences of intent to  
18 distribute, the inferences set out in Sections 44-53-370 and  
19 44-53-375 apply to criminal prosecutions under this section.”

20  
21 SECTION 40. Section 44-53-450 of the 1976 Code, as last  
22 amended by Act 36 of 2009, is further amended to read:

23  
24 “Section 44-53-450. ~~(a)~~ Whenever any person who has not  
25 previously been convicted of any offense under this article or any  
26 offense under any State or Federal statute relating to marihuana, or  
27 stimulant, depressant, or hallucinogenic drugs, pleads guilty to or  
28 is found guilty of possession of a controlled substance under  
29 Section 44-53-370 (c) and (d), or Section 44-53-375 (A) ~~except~~  
30 ~~narcotic drugs classified in Schedule I (b) and (c) and narcotic~~  
31 ~~drugs classified in Schedule II,~~ the court, without entering a  
32 judgment of guilt and with the consent of the accused, may defer  
33 further proceedings and place him on probation upon terms and  
34 conditions as it requires, including the requirement that such  
35 person cooperate in a treatment and rehabilitation program of a  
36 State-supported facility or a facility approved by the Commission,  
37 if available. Upon violation of a term or condition, the court may  
38 enter an adjudication of guilt and proceed as otherwise provided.  
39 Upon fulfillment of the terms and conditions, the court shall  
40 discharge the person and dismiss the proceedings against him.  
41 Discharge and dismissal under this section shall be without court  
42 adjudication of guilt and is not a conviction for purposes of this  
43 section or for purposes of disqualifications or disabilities imposed

1 by law upon conviction of a crime, including the additional  
2 penalties imposed for second or subsequent convictions. However,  
3 a nonpublic record shall be forwarded to and retained by the  
4 Department of Narcotic and Dangerous Drugs under the South  
5 Carolina Law Enforcement Division solely for the purpose of use  
6 by the courts in determining whether or not a person has  
7 committed a subsequent offense under this article. Discharge and  
8 dismissal under this section may occur only once with respect to  
9 any person.

10 ~~(bB)~~ Upon the dismissal of the person and discharge of the  
11 proceedings against him pursuant to subsection (A), ~~and if the~~  
12 ~~offense did not involve a controlled substance classified in~~  
13 ~~Schedule I which is a narcotic drug and Schedule II which is a~~  
14 ~~narcotic drug~~, the person may apply to the court for an order to  
15 expunge from all official records (other than the nonpublic records  
16 to be retained as provided in subsection (A)) all recordation  
17 relating to his arrest, indictment or information, trial, finding of  
18 guilty, and dismissal and discharge pursuant to this section. If the  
19 court determines, after hearing, that the person was dismissed and  
20 the proceedings against him discharged, it shall enter the order.  
21 The effect of the order is to restore the person, in the  
22 contemplation of the law, to the status he occupied before the  
23 arrest or indictment or information. No person as to whom the  
24 order has been entered may be held pursuant to another provision  
25 of law to be guilty of perjury or otherwise giving a false statement  
26 by reason of his failure to recite or acknowledge the arrest, or  
27 indictment or information, or trial in response to an inquiry made  
28 of him for any purpose.

29 (C) Before a person may be discharged and the proceedings  
30 dismissed pursuant to this section, the person must pay a fee of  
31 three hundred fifty dollars if the person is in a general sessions  
32 court and one hundred fifty dollars if the person is in a summary  
33 court. No portion of the fee may be waived, reduced, or  
34 suspended, except in cases of indigency. If the court determines  
35 that a person is indigent, the court may partially or totally waive,  
36 reduce, or suspend the fee. The revenue collected pursuant to this  
37 subsection must be retained by the jurisdiction that heard or  
38 processed the case and paid to the State Treasurer within thirty  
39 days of receipt. The State Treasurer shall transmit these funds to  
40 the Prosecution Coordination Commission which shall then  
41 apportion these funds among the sixteen judicial circuits on a per  
42 capita basis equal to the population in that circuit compared to the  
43 population of the State as a whole based on the most recent official

1 United States census. The funds must be used for drug treatment  
2 court programs only. The amounts generated by this subsection  
3 are in addition to any amounts presently being provided for drug  
4 treatment court programs and may not be used to supplant funding  
5 already allocated for these services. The State Treasurer may  
6 request the State Auditor to examine the financial records of a  
7 jurisdiction which he believes is not timely transmitting the funds  
8 required to be paid to the State Treasurer pursuant to this  
9 subsection. The State Auditor is further authorized to conduct  
10 these examinations and the local jurisdiction is required to  
11 participate in and cooperate fully with the examination.”

12  
13 SECTION 41. Section 44-53-470 of the 1976 Code, as last  
14 amended by Act 127 of 2005, is further amended to read:

15  
16 “Section 44-53-470. (A) An offense is considered a second  
17 or subsequent offense if:

18 ~~(1) for a possession offense pursuant to the provisions of this~~  
19 ~~article, the offender has been convicted within the previous ten~~  
20 ~~years of a violation of a provision of this article or of another state~~  
21 ~~or federal statute relating to narcotic drugs, marijuana, depressants,~~  
22 ~~stimulants, or hallucinogenic drugs; and~~

23 ~~(2) for all other offenses pursuant to the provisions of this~~  
24 ~~article, the offender has at any time been convicted of a violation~~  
25 ~~of a provision of this article or of another state or federal statute~~  
26 ~~relating to narcotic drugs, marijuana, depressants, stimulants, or~~  
27 ~~hallucinogenic drugs.~~

28 (1) for an offense involving marijuana pursuant to the  
29 provisions of this article, the offender has been convicted within  
30 the previous five years of a first violation of a marijuana  
31 possession provision of this article or of another state or federal  
32 statute relating to marijuana possession;

33 (2) for an offense involving marijuana pursuant to the  
34 provisions of this article, the offender has at any time been  
35 convicted of a first, second, or subsequent violation of a marijuana  
36 offense provision of this article or of another state or federal statute  
37 relating to marijuana offenses, except a first violation of a  
38 marijuana possession provision of this article or of another state or  
39 federal statute relating to marijuana offenses;

40 (3) for an offense involving a controlled substance other  
41 than marijuana pursuant to this article, the offender has been  
42 convicted within the previous ten years of a first violation of a  
43 controlled substance offense provision, other than a marijuana



1 offense provision, of this article or of another state or federal  
2 statute relating to narcotic drugs, depressants, stimulants, or  
3 hallucinogenic drugs; and

4 (4) for an offense involving a controlled substance other  
5 than marijuana pursuant to this article, the offender has at any time  
6 been convicted of a second or subsequent violation of a controlled  
7 substance, offense provision, other than a marijuana offense  
8 provision, of this article or of another state or federal statute  
9 relating to narcotic drugs, depressants, stimulants, or  
10 hallucinogenic drugs.

11 (B) If a person is sentenced to confinement as the result of a  
12 conviction pursuant to this article, the time period specified in this  
13 section begins on the date of the conviction or on the date the  
14 person is released from confinement imposed for the conviction,  
15 whichever is later.”

16  
17 SECTION 42. Section 44-53-582 of the 1976 Code is amended  
18 to read:

19  
20 “Section 44-53-582. All monies used by law enforcement  
21 officers or agents, in the line of duty, to purchase controlled  
22 substances during a criminal investigation must be returned to the  
23 State or local agency or unit of government furnishing the monies  
24 upon a determination by the court that the monies were used by  
25 law enforcement officers or agents, in the line of duty, to purchase  
26 controlled substances during a criminal investigation. The court  
27 may order a defendant to return the monies to the state or local  
28 agency or unit of government at the time of sentencing.”

29  
30 SECTION 43. Section 56-1-745(A) of the 1976 Code is  
31 amended to read:

32  
33 “(A) The driver’s license of a person convicted of a controlled  
34 substance violation ~~involving hashish or marijuana~~ must be  
35 suspended for a period of six months. ~~The driver’s license of a~~  
36 ~~person convicted of any other controlled substance violation must~~  
37 ~~be suspended for a period of one year.~~ If the person does not have  
38 a driver’s license, the court shall order the Department of Motor  
39 Vehicles not to issue a driver’s license for six months after the  
40 person legally is eligible for the issuance of a driver’s license ~~if the~~  
41 ~~offense involves hashish or marijuana. If the offense involves any~~  
42 ~~other controlled substance, the court shall order the department not~~  
43 ~~to issue a driver’s license for one year after the person legally is~~

1 ~~eligible for the issuance of a driver's license.~~ For each subsequent  
2 conviction under this section, the court shall order the driver's  
3 license to be suspended for an additional six months ~~or one year, as~~  
4 ~~the case may be.~~ The additional period of suspension for a  
5 subsequent offense runs consecutively and does not commence  
6 until the expiration of the suspension for the prior offense.”

## 8 PART II

### 10 Release and Supervision Revisions

11  
12 SECTION 44. It is the intent of the General Assembly that the  
13 provisions in PART II of this Act shall provide cost-effective  
14 prison release and community supervision mechanisms and  
15 cost-effective and incentive-based strategies for alternatives to  
16 incarceration in order to reduce recidivism and improve public  
17 safety.

18  
19 SECTION 45. Article 1, Chapter 21, Title 24 of the 1976 Code  
20 is amended by adding:

21  
22 “Section 24-21-5. As used in this chapter:

23 (1) ‘Administrative monitoring’ means a form of monitoring  
24 by the department beyond the end of the term of supervision in  
25 which the only remaining condition of supervision not completed  
26 is the payment of financial obligations. Under administrative  
27 monitoring, the only condition of the monitoring shall be the  
28 requirement that reasonable progress be made towards the payment  
29 of financial obligations. The payment of monitoring mandated  
30 fees shall continue. When an offender is placed on administrative  
31 monitoring, he shall register with the department’s representative  
32 in his county, notify the department of his current address each  
33 quarter, and make payments on financial obligations owed, until  
34 the financial obligations are paid in full or a consent order of  
35 judgment is filed.

36 (2) ‘Criminal risk factors’ mean characteristics and behaviors  
37 that, when addressed or changed, affect a person’s risk for  
38 committing crimes. The characteristics may include, but not be  
39 limited to, the following risk and criminogenic need factors:  
40 antisocial behavior patterns; criminal personality; antisocial  
41 attitudes, values, and beliefs; poor impulse control; criminal  
42 thinking; substance abuse; criminal associates; dysfunctional

1 family or marital relationships; or low levels of employment or  
2 education.

3 (3) 'Department' means the Department of Probation, Parole  
4 and Pardon Services.

5 (4) 'Evidence-based practices' mean supervision policies,  
6 procedures, and practices that scientific research demonstrates  
7 reduce recidivism among individuals on probation, parole, or  
8 post-correctional supervision.

9 (5) 'Financial obligations' mean fines, fees, and restitution  
10 either ordered by the court or statutorily imposed.

11 (6) 'Hearing Officer' means an employee of the department  
12 who conducts preliminary hearings to determine probable cause on  
13 alleged violations committed by an individual under the  
14 supervision of the department and as otherwise provided by law.  
15 This includes, but is not limited to, violations concerning  
16 probation, parole, and community supervision. The hearing officer  
17 also conducts preliminary hearings and final revocation hearings  
18 for supervised furlough, youthful offender conditional release  
19 cases, and such other hearings as required by law."

20  
21 SECTION 46. Section 24-21-10 of the 1976 Code is amended to  
22 read:

23  
24 "Section 24-21-10.(A) The ~~department~~ ~~Department—of~~  
25 ~~Probation, Parole, and Pardon Services, hereafter referred to as the~~  
26 ~~'department', is governed by the its director of the department.~~  
27 The director must be appointed by the Governor with the advice  
28 and consent of the Senate. To qualify for appointment, the director  
29 must have a baccalaureate or more advanced degree from an  
30 institution of higher learning that has been accredited by a regional  
31 or national accrediting body, which is recognized by the Council  
32 for Higher Education Accreditation and must have at least ten  
33 years of training and experience in one or more of the following  
34 fields: parole, probation, corrections, criminal justice, law, law  
35 enforcement, psychology, psychiatry, sociology, or social work.

36 (B) The Board of Probation, Parole, and Pardon Services is  
37 composed of seven members. The terms of office of the members  
38 are for six years. Six of the seven members must be appointed  
39 from each of the congressional districts and one member must be  
40 appointed at large. The at-large appointee shall have at least five  
41 years of work or volunteer experience in one or more of the  
42 following fields: parole, probation, corrections, criminal justice,  
43 law, law enforcement, psychology, psychiatry, sociology, or social

1 work. Vacancies must be filled by gubernatorial appointment with  
2 the advice and consent of the Senate for the unexpired term. If a  
3 vacancy occurs during a recess of the Senate, the Governor may  
4 fill the vacancy by appointment for the unexpired term pending the  
5 consent of the Senate, provided the appointment is received for  
6 confirmation on the first day of the Senate's next meeting  
7 following the vacancy. A chairman must be elected annually by a  
8 majority of the membership of the board. The chairman may serve  
9 consecutive terms.

10 (C) The Governor shall deliver an appointment within sixty  
11 days of the expiration of a term, if an individual is being  
12 reappointed, or within ninety days of the expiration of a term, if an  
13 individual is an initial appointee. If a board member who is being  
14 reappointed is not confirmed within sixty days of receipt of the  
15 appointment by the Senate, the appointment is considered rejected.  
16 For an initial appointee, if confirmation is not made within ninety  
17 days of receipt of the appointment by the Senate, the appointment  
18 is deemed rejected. The Senate may by resolution extend the  
19 period after which an appointment is considered rejected. If the  
20 failure of the Senate to confirm an appointee would result in the  
21 lack of a quorum of board membership, the seat for which  
22 confirmation is denied or rejected shall not be considered when  
23 determining if a quorum of board membership exists.

24 (D) Within ninety days of a parole board member's  
25 appointment by the Governor and confirmation by the Senate, the  
26 board member must complete a comprehensive training course  
27 developed by the department using training components consistent  
28 with those offered by the National Institute of Corrections or the  
29 American Probation and Parole Association. This training course  
30 must include classes regarding the following:

31 (1) the elements of the decision making process, through the  
32 use of evidence-based practices for determining offender risk,  
33 needs and motivations to change, including the actuarial  
34 assessment tool that is used by the parole agent;

35 (2) security classifications as established by the Department  
36 of Corrections; 3) programming and disciplinary processes and the  
37 department's supervision, case planning, and violation process;

38 (4) the dynamics of criminal victimization; and

39 (5) collaboration with corrections related stakeholders, both  
40 public and private, to increase offender success and public safety.

41 The department must promulgate regulations setting forth the  
42 minimum number of hours of training required for the board

1 members and the specific requirements of the course that the  
2 members must complete.

3 (E)(1) Each parole board member is also required to complete a  
4 minimum of eight hours of training annually, which shall be  
5 provided for in the department's annual budget. This annual  
6 training course must be developed using the training components  
7 consistent with those offered by the National Institute of  
8 Corrections or American Probation and Parole Association and  
9 must offer classes regarding:

10 (1) a review and analysis of the effectiveness of the  
11 assessment tool used by the parole agents;

12 (2) a review of the department's progress toward public  
13 safety goals;

14 (3) the use of data in decision making; and

15 (4) any information regarding promising and evidence-based  
16 practices offered in the corrections related and crime victim  
17 dynamics field.

18 The department must promulgate regulations setting forth the  
19 specific criteria for the course that the members must complete.

20 (2) If a parole board member does not fulfill the training as  
21 provided in this section, the governor, upon notification, must  
22 remove that member from the board unless the Governor grants the  
23 parole board member an extension to complete the training, based  
24 upon exceptional circumstances.

25 (F) The department must develop a plan that includes the  
26 following:

27 (1) establishment of a process for adopting a validated  
28 actuarial risk and needs assessment tool consistent with  
29 evidence-based practices and factors that contribute to criminal  
30 behavior, which the Parole Board shall use in making parole  
31 decisions, including additional objective criteria that may be used  
32 in parole decisions;

33 (2) establishment of procedures for the department on the  
34 use of the validated assessment tool to guide the department,  
35 Parole Board, and agents of the department in determining  
36 supervision management and strategies for all offenders under the  
37 department's supervision, including offender risk classification,  
38 and case planning and treatment decisions to address criminal risk  
39 factors and reduce offender risk of recidivism; and

40 (3) establishment of goals for the department, which include  
41 training requirements, mechanisms to ensure quality  
42 implementation of the validated assessment tool, and performance  
43 safety performance indicators.

1 (G) The director shall submit the plan in writing to the  
2 Sentencing Reform Oversight Committee no later than July 1,  
3 2011. Thereafter, the department must submit an annual report to  
4 the Sentencing Reform Oversight Committee on its performance  
5 for the previous fiscal year and plans for the upcoming year. The  
6 department must collect and report all relevant data in a uniform  
7 format of both board decisions and field services and must  
8 annually compile a summary of past practices and outcomes.”  
9

10 SECTION 47. Section 24-21-13 of the 1976 Code is amended to  
11 read:

12  
13 “Section 24-21-13.(A) It is the duty of the director to  
14 oversee, manage, and control the department. The director shall  
15 develop written policies and procedures for the following:

16 (1) the supervising of offenders on probation, parole,  
17 community supervision, and other offenders released from  
18 incarceration prior to the expiration of their sentence, which  
19 supervising shall be based on a structured decision-making guide  
20 designed to enhance public safety, which uses evidence based  
21 practices and focuses on considerations of offenders’ criminal risk  
22 factors;

23 (2) the consideration of paroles and pardons and the  
24 supervision of offenders in the community supervision program,  
25 and other offenders released from incarceration prior to the  
26 expiration of their sentence. The requirements for an offender’s  
27 participation in the community supervision program and an  
28 offender’s progress toward completing the program are to be  
29 decided administratively by the Department of Probation, Parole,  
30 and Pardon Services. No inmate or future inmate shall have a  
31 ‘liberty interest’ or an ‘expectancy of release’ while in a  
32 community supervision program administered by the department;

33 (3) the operation of community-based correctional services  
34 and treatment programs; and

35 (4) the operation of public work sentence programs for  
36 offenders as provided in item (1) of this subsection. This program  
37 also may be utilized as an alternative to technical revocations. The  
38 director shall establish priority programs for litter control along  
39 state and county highways. This must be included in the ‘public  
40 service work’ program.

41 (B) It is the duty of the board to consider cases for parole,  
42 pardon, and any other form of clemency provided for under law.”  
43

1 SECTION 48. Article 1, Chapter 21, Title 24 of the 1976 Code  
2 is amended by adding:

3  
4 “Section 24-21-32.(A) For purposes of this section, ‘release  
5 date’ means the date determined by the South Carolina Department  
6 of Corrections on which an inmate is released from prison, based  
7 on the inmate’s sentence and all earned credits allowed by law.

8 (B) Notwithstanding the provisions of this chapter, an inmate,  
9 who is not required to participate in a community supervision  
10 program pursuant to Article 6, Chapter 21, Title 24, shall be placed  
11 on reentry supervision with the department before the expiration of  
12 the inmate’s released date. Inmates who have been incarcerated  
13 for a minimum of two years shall be released to reentry  
14 supervision one hundred and eighty days before their release date.  
15 For an inmate whose sentence includes probation, the period of  
16 reentry supervision is reduced by the term of probation.

17 (C) The individual terms and conditions of reentry supervision  
18 shall be developed by the department using an evidence-based  
19 assessment of the inmate’s needs and risks. An inmate placed on  
20 reentry supervision must be supervised by a probation agent of the  
21 department. The department shall promulgate regulations for the  
22 terms and conditions of reentry supervision. Until such time as  
23 regulations are promulgated, the terms and conditions shall be  
24 based on guidelines developed by the director.

25 (D) If the department determines that an inmate has violated a  
26 term or condition of reentry supervision sufficient to revoke the  
27 reentry supervision, a probation agent must initiate a proceeding  
28 before a department administrative hearing officer. The  
29 proceeding must be initiated pursuant to a warrant or a citation  
30 describing the violations of the reentry supervision. No inmate  
31 arrested for violation of a term or condition of reentry supervision  
32 may be released on bond; however, he shall be credited with time  
33 served as set forth in Section 24-13-40 toward his release date. If  
34 the administrative hearing officer determines the inmate has  
35 violated a term or condition of reentry supervision, the hearing  
36 officer may impose other terms or conditions set forth in the  
37 regulations or department guidelines, and may continue the inmate  
38 on reentry supervision, or the hearing officer may revoke the  
39 inmate’s reentry supervision and the inmate shall be incarcerated  
40 up to one hundred eighty days, but the maximum aggregate time  
41 that the inmate shall serve on reentry supervision or for revocation  
42 of the reentry supervision shall not exceed an amount of time equal  
43 to the length of incarceration imposed by the court for the offense

1 that the inmate was serving at the time of his initial reentry  
2 supervision. The decision of the administrative hearing officer on  
3 the reentry supervision shall be final and there shall be no appeal  
4 of his decision.”

5  
6 SECTION 49. Section 24-21-220 of the 1976 Code is amended  
7 to read:

8  
9 “Section 24-21-220. The director is vested with the exclusive  
10 management and control of the department and is responsible for  
11 the management of the department and for the proper care,  
12 assessment, treatment, supervision, and management of offenders  
13 under its control. The director shall manage and control the  
14 department and it is the duty of the director to carry out the  
15 policies of the department. The director is responsible for  
16 scheduling board meetings, assuring that the proper cases and  
17 investigations are prepared for the board, maintaining the board’s  
18 official records, and performing other administrative duties  
19 relating to the board’s activities. The director must employ within  
20 his office such personnel as may be necessary to carry out his  
21 duties and responsibilities including the functions of probation,  
22 parole, and community supervision, community-based programs,  
23 financial management, research and planning, staff development  
24 and training, and internal audit. The director shall make annual  
25 written reports to the board, the Governor, and the General  
26 Assembly providing statistical and other information pertinent to  
27 the department’s activities.”

28  
29 SECTION 50. Section 24-21-280 of the 1976 Code is amended  
30 to read:

31  
32 “Section 24-21-280. (A) A probation agent must investigate  
33 all cases referred to him for investigation by the judges or director  
34 and report in writing. He must furnish to each person released on  
35 probation, parole, or community supervision under his supervision  
36 a written statement of the conditions of probation, parole, or  
37 community supervision and must instruct him regarding them. He  
38 must keep informed concerning the conduct and condition of each  
39 person on probation, parole, or community supervision under his  
40 supervision by visiting, requiring reports, and in other ways, and  
41 must report in writing as often as the court or director may require.  
42 He must use practicable and suitable methods that are consistent  
43 with evidence-based practices to aid and encourage persons on



1 probation, parole, or community supervision to bring about  
2 improvement in their conduct and condition and to reduce the risk  
3 of recidivism for the offenders under his supervision. A probation  
4 agent must keep detailed records of his work, make reports in  
5 writing, and perform other duties as the director may require.

6 (B) A probation agent has, in the execution of his duties, the  
7 power to issue an arrest warrant or a citation charging a violation  
8 of conditions of supervision, the powers of arrest, and, to the  
9 extent necessary, the same right to execute process given by law to  
10 sheriffs. A probation agent has the power and authority to enforce  
11 the criminal laws of the State. In the performance of his duties of  
12 probation, parole, community supervision, and investigation, he is  
13 regarded as the official representative of the court, the department,  
14 and the board.

15 (C) A probation agent must conduct an actuarial assessment of  
16 offender risks and needs, including criminal risk factors and  
17 specific needs of each individual, under the supervision of the  
18 department, which shall be used to make objectively based  
19 decisions that are consistent with evidence-based practices on the  
20 type of supervision and services necessary. The actuarial  
21 assessment tool shall include screening and comprehensive  
22 versions. The screening version shall be used as a triage tool to  
23 determine offenders who require the comprehensive version. The  
24 director shall also require each agent to receive annual training on  
25 evidence-based practices and criminal risks factors and how to  
26 target these factors to reduce recidivism.

27 (D) A probation agent, in consultation with his supervisor, shall  
28 identify each individual under the supervision of the department,  
29 with a term of supervision of more than one year, and shall  
30 calculate and award compliance credits as provided in this section.  
31 Credits may be earned from the first day of supervision on a  
32 thirty-day basis, but shall not be applied until after each thirty-day  
33 period of supervision has been completed. Compliance credits  
34 may be denied for noncompliance on a thirty-day basis as  
35 determined by the department. The denial of nonearned  
36 compliance credits is a final decision of the department and is not  
37 subject to appeal. An individual may earn up to twenty days of  
38 compliance credits for each thirty-day period in which he has  
39 fulfilled all of the conditions of his supervision, has no new arrests,  
40 and has made all scheduled payments of his financial obligations.

41 (E) Any portion of the earned compliance credits are subject to  
42 be revoked by the department if an individual violates a condition  
43 of supervision during a subsequent thirty-day period.

1 (F) The department shall provide annually to the Sentencing  
2 Reform Oversight Committee the number of offenders who qualify  
3 for compliance credits and the amount of credits each has earned  
4 within a fiscal year."

5  
6 SECTION 51. Section 24-21-230 of the 1976 Code is amended  
7 to read:

8  
9 "Section 24-21-230. (A) The director must employ probation  
10 agents required for service in the State and clerical assistants as  
11 necessary. The probation agents must take and pass psychological  
12 and qualifying examinations as directed by the director. The  
13 director must ensure that each probation agent receives adequate  
14 training. Until the initial employment requirements are met, no  
15 person may take the oath of a probation agent nor exercise the  
16 authority granted to them.

17 (B) The director must employ hearing officers who conduct  
18 preliminary hearings to determine probable cause on violations  
19 committed by individuals under the supervision of the department  
20 and as otherwise provided by law. This includes, but is not limited  
21 to, violations concerning probation, parole, and community  
22 supervision. The hearing officer also conducts preliminary  
23 hearings and final revocation hearings for supervised furlough,  
24 youthful offender conditional release cases, and such other  
25 hearings as required by law. The department shall promulgate  
26 regulations for the qualifications of the hearing officers and the  
27 procedures for the preliminary hearings. Until regulations are  
28 adopted, the qualifications and procedures shall be based on  
29 guidelines developed by the director."

30  
31 SECTION 52. Article 1, Chapter 21, Title 24 is amended by  
32 adding:

33  
34 "Section 24-21-100. (A) Notwithstanding the provisions of  
35 Sections 24-19-120, 24-21-440, 24-21-560(B), or 24-21-670, when  
36 an individual has not fulfilled his obligations for payment of  
37 financial obligations by the end of his term of supervision, then the  
38 individual shall be placed under quarterly administrative  
39 monitoring, as defined in Section 24-21-5, by the department until  
40 such time as those financial obligations are paid in full or a consent  
41 order of judgment is filed. If the individual under administrative  
42 monitoring fails to make reasonable progress towards the payment  
43 of such financial obligations, as determined by the department, the

1 department may petition the court to hold an individual in civil  
2 contempt for failure to pay the financial obligations. If the court  
3 finds the individual has the ability to pay but has not made  
4 reasonable progress towards payment, the court may hold the  
5 individual in civil contempt of court and may impose a term of  
6 confinement in the local detention center until payment of the  
7 financial obligations, but in no case to exceed ninety days of  
8 confinement. Following any term of confinement, the individual  
9 shall be returned to quarterly administrative monitoring by the  
10 department. If the individual under administrative monitoring does  
11 not have the ability to pay the financial obligations and has no  
12 reasonable likelihood of being able to pay in the future, the  
13 Department may submit a consent order of judgment to the court,  
14 which shall relieve the individual of any further administrative  
15 monitoring.

16 (B) An individual placed on administrative monitoring shall  
17 pay a regular monitoring fee towards offsetting the cost of his  
18 administrative monitoring for the period of time that he remains  
19 under monitoring. The regular monitoring fee must be determined  
20 by the department based upon the ability of the person to pay. The  
21 fee must not be more than ten dollars a month. All regular  
22 monitoring fees must be retained by the department, carried  
23 forward, and applied to the department's operation."

24  
25 SECTION 53. Article 1, Chapter 21, Title 24 of the 1976 Code  
26 is amended by adding:

27  
28 "Section 24-21-110. (A) In response to a violation of the terms  
29 and conditions of any supervision program operated by the  
30 department, whether pursuant to statute or contract with another  
31 state agency, the probation agent may, with the concurrence of his  
32 supervisor and, as an alternative to issuing a warrant or citation,  
33 serve on the offender a notice of administrative sanctions. The  
34 agent must not serve a notice of administrative sanctions on an  
35 offender for violations of special conditions if a sentencing court  
36 provided that those violations would be heard by the court. The  
37 administrative sanctions must be equal to or less restrictive than  
38 the sanctions available to the revoking authority, with the  
39 exception of revocation.

40 (B) If the offender agrees in writing to the additional conditions  
41 set forth in the notice or order of administrative sanctions, the  
42 conditions must be implemented with swiftness and certainty. If  
43 the offender does not agree, or if after agreeing the offender fails to

1 fulfill the additional conditions to the satisfaction of the probation  
2 agent and his supervisor, then the probation agent may commence  
3 revocation proceedings.

4 (C) In addition to the notice of administrative sanctions, a  
5 hearing officer with the department may, as an alternative to  
6 sending a case forward to the revoking authority, impose on the  
7 offender an order of administrative sanctions. The order may be  
8 made only after the hearing officer has made a finding of probable  
9 cause at a preliminary hearing that an offender has violated the  
10 terms and conditions of any supervision program operated by the  
11 department, whether pursuant to statute or a contract with another  
12 state agency. The administrative sanctions must be equal to or less  
13 restrictive than the sanctions available to the revoking authority,  
14 with the exception of revocation. The sanctions must be  
15 implemented with swiftness and certainty.

16 (D) The administrative sanctions shall be established by  
17 regulations of the department, as set forth by established  
18 administrative procedures. The department shall delineate in the  
19 regulations a listing of administrative sanctions for the most  
20 common types of supervision violations including, but not limited  
21 to: failure to report; failure to pay fines, fees, and restitution;  
22 failure to participate in a required program or service; failure to  
23 complete community service; and failure to refrain from the use of  
24 alcohol or controlled substances. The sanctions shall consider the  
25 severity of the current violation, the offender's previous criminal  
26 record, the number and severity of previous supervision violations,  
27 the offender's assessment, and the extent to which administrative  
28 sanctions were imposed for previous violations. The department,  
29 in determining the list of administrative sanctions to be served on  
30 an offender, shall ascertain the availability of community-based  
31 programs and treatment options including, but not limited to:  
32 inpatient and outpatient substance abuse treatment facilities; day  
33 reporting centers; restitution centers; intensive supervisions;  
34 electronic monitoring; community service; programs to reduce  
35 criminal risk factors; and other community-based options  
36 consistent with evidence-based practices.

37 (E) The department shall provide annually to the Sentencing  
38 Reform Oversight Committee:

39 (1) the number of offenders who were placed on  
40 administrative sanctions during the prior fiscal year, and who were  
41 not returned to incarceration within that fiscal year;

42 (2) the number and percentage of offenders whose  
43 supervision programs were revoked for violations of the conditions

1 of supervision and ordered to serve a term of imprisonment. This  
2 calculation shall be based on the fiscal year prior to the fiscal year  
3 in which the report is required. The baseline revocation rate shall  
4 be the revocation rate in fiscal year 2010; and

5 (3) the number and percentage of offenders who were  
6 convicted of a new offense and sentenced to a term of  
7 imprisonment. This calculation shall be based on the fiscal year  
8 prior to the fiscal year in which the report is required. The  
9 baseline revocation rate shall be the revocation rate in fiscal year  
10 2010.”

11  
12 SECTION 54. Section 24-21-490 of the 1976 Code is amended  
13 to read:

14  
15 “Section 24-21-490.(A) The Department of Probation, Parole  
16 and Pardon Services shall collect and distribute restitution on a  
17 monthly basis from all offenders under probationary and intensive  
18 probationary supervision.

19 (B) Notwithstanding Section 14-17-725, the department shall  
20 assess a collection fee of twenty percent of each restitution  
21 program and deposit this collection fee into a separate account.  
22 The department shall maintain individual restitution accounts that  
23 reflect each transaction and the amount paid, the collection fee,  
24 and the unpaid balance of the account. A summary of these  
25 accounts must be reported to the Governor’s Office, the President  
26 of the Senate, the Speaker of the House, the Chairman of the  
27 House Judiciary Committee, and the Chairman of the Senate  
28 Corrections and Penology Committee every six months following  
29 the enactment of this section.

30 (C) The department may retain the collection fees described in  
31 subsection (B) and expend the fees for the purpose of collecting  
32 and distributing restitution. Unexpended funds at the end of each  
33 fiscal year may be retained by the department and carried forward  
34 for use for the same purpose by the department.

35 (D) For financial obligations collected by the department  
36 pursuant to administrative monitoring requirements, payments  
37 shall be distributed by the department proportionately to pay  
38 restitution and fees based on the ratio of each category to the total  
39 financial obligation owed. Fines shall continue to be paid and  
40 collected pursuant to the provisions of Chapter 17 of Title 14.”

41  
42 SECTION 55. Article 7, Chapter 21, Title 24 of the 1976 Code  
43 is amended by adding:

1  
2 “Section 24-21-715. (A) As contained in this section:

3 (1) ‘Terminally ill’ means an inmate who, as determined by  
4 a licensed physician, has an incurable condition caused by illness  
5 or disease that was unknown at the time of sentencing or, since the  
6 time of sentencing, has progressed to render the inmate terminally  
7 ill, and that will likely produce death within two years, and that is  
8 so debilitating that the inmate does not pose a public safety risk.

9 (2) ‘Geriatric’ means an inmate who is seventy years of age  
10 or older and suffers from chronic infirmity, illness, or disease  
11 related to aging, which has progressed so the inmate is  
12 incapacitated as determined by a licensed physician to the extent  
13 that the inmate does not pose a public safety risk.

14 (3) ‘Permanently incapacitated’ means an inmate who no  
15 longer poses a public safety risk because of a medical condition  
16 that is not terminal but that renders him permanently and  
17 irreversibly incapacitated as determined by a licensed physician  
18 and which requires immediate and long term residential care.

19 (B) Notwithstanding another provision of law, only the full  
20 Parole Board, upon a petition filed by the Director of the  
21 Department of Corrections, may order the release of an inmate  
22 who is terminally ill, geriatric, permanently incapacitated, or any  
23 combination of these conditions.

24 (C) The parole order issued by the Parole Board pursuant to  
25 this section must include findings of fact that substantiate a legal  
26 and medical conclusion that the inmate is terminally ill, geriatric,  
27 permanently incapacitated, or a combination of these conditions,  
28 and does not pose a threat to society or himself. It also must  
29 contain the requirements for the inmate’s supervision and  
30 conditions for his participation and removal.

31 (D) An inmate granted a parole pursuant to this section is under  
32 the supervision of the Department of Probation, Parole and Pardon  
33 Services. The inmate must reside in an approved residence and  
34 abide by all conditions ordered by the Parole Board. The  
35 department is responsible for supervising an inmate’s compliance  
36 with the conditions of the parole board’s order as well as  
37 monitoring the inmate in accordance with the department’s  
38 policies.

39 (E) The department shall retain jurisdiction for all matters  
40 relating to the parole granted pursuant to this section and conduct  
41 an annual review of the inmate’s status to ensure that he remains  
42 eligible for parole pursuant to this section. If the department  
43 determines that the inmate is no longer eligible to participate in the

1 parole set forth in this section, a probation agent must issue a  
2 warrant or citation charging a violation of parole and the board  
3 shall proceed pursuant to the provisions of Section 24-21-680.”

4  
5 SECTION 56. Chapter 22, Title 17 of the 1976 Code is amended  
6 by adding:

7  
8 “Article 11  
9

10 Office of Pretrial Intervention Coordinator  
11 Diversion Program Data and Reporting  
12

13 Section 17-22-1110. As used in this chapter:

14 (1) ‘Criminal risk factors’ mean characteristics and behaviors  
15 that, when addressed or changed, affect a person’s risk for  
16 committing crimes. The characteristics may include, but not be  
17 limited to, the following risk and criminogenic need factors:  
18 antisocial behavior patterns; criminal personality; antisocial  
19 attitudes, values, and beliefs; poor impulse control; criminal  
20 thinking; substance abuse; criminal associates; dysfunctional  
21 family or marital relationships; or low levels of employment or  
22 education.

23 (2) ‘Evidence-based practices’ mean supervision policies,  
24 procedures, and practices that scientific research demonstrates  
25 reduce recidivism among individuals on probation, parole, or  
26 post-correctional supervision.

27  
28 Section 17-22-1120. (A) In addition to the information  
29 collected and processed by the Office of Pretrial Intervention  
30 Coordinator within the Commission on Prosecution Coordination  
31 pursuant to Articles 1, 3, 5 and 7, Chapter 22, Title 17, the Office  
32 of Pretrial Intervention Coordination shall be responsible for  
33 collecting data on all programs administered by a circuit solicitor,  
34 the Commission on Prosecution Coordination, or a court, which  
35 divert offenders from prosecution to an alternative program or  
36 treatment.

37 (B) This shall include programs administered by circuit  
38 solicitors, which are either statutorily mandated or established by  
39 judicial order, and shall include, but are not limited to: alcohol  
40 education programs; drug courts for adults or juveniles; traffic  
41 education programs; worthless checks units; pre-trial intervention;  
42 mental health courts; or juvenile arbitration.

1 (C) Notwithstanding the provisions of Section 17-22-130,  
2 17-22-360, 17-22-370, or 17-22-560, the Office of Pretrial  
3 Intervention Coordinator shall collect and make available for  
4 public inspection an annual report on the numbers of individuals  
5 who apply for a diversion program, the number of individuals who  
6 begin a diversion program or treatment, the number of individuals  
7 who successfully complete a program or treatment within a  
8 twelve-month period, the number of individuals who do not  
9 successfully complete a program or treatment within the same  
10 twelve-month period, but who are still participating in the program  
11 or treatment, the number of individuals who did not complete the  
12 program within the twelve-month period and who have been  
13 prosecuted for the offense committed, and the number of  
14 individuals with fees fully or partially waived for indigence. The  
15 data collected and made available for public inspection shall be  
16 listed by each county, by each program or treatment, and the  
17 offense originally committed, but shall not contain any identifying  
18 information of the participant.

19 (D) A copy of the report shall be sent to the Sentencing Reform  
20 Oversight Committee for evaluation of the diversion programs and  
21 treatments being administered in the State by the circuit solicitors  
22 or a court, the effectiveness of each program, and to ascertain the  
23 need for additional programs, program modifications, or repeal of  
24 existing programs. In evaluating the programs and treatments, the  
25 Sentencing Reform Oversight Committee may request information  
26 on the evidence-based practices used in each program or treatment  
27 to identify offender risks and needs, and the specific interventions  
28 employed in each program or treatment to identify criminal risk  
29 factors and reduce recidivism.”

30  
31 SECTION 57. Section 24-13-2130 of the 1976 Code is amended  
32 to read:

33  
34 “Section 24-13-2130. (A) The memorandum of understanding  
35 between the South Carolina Department of Corrections, Probation,  
36 Parole and Pardon Services, the Department of Vocational  
37 Rehabilitation, Employment Security Commission, Alston Wilkes  
38 Society, and other private sector entities shall establish the role of  
39 each agency in:

40 (1) ascertaining an inmate’s opportunities for employment  
41 after release from confinement and providing him with vocational  
42 and academic education and life skills assessments based on



1 evidence-based practices and criminal risk factors analysis as may  
2 be appropriate;

3 (2) developing skills enhancement programs for inmates, as  
4 appropriate;

5 (3) coordinating job referrals and related services to inmates  
6 prior to release from incarceration;

7 (4) encouraging participation by inmates in the services  
8 offered;

9 (5) developing and maintaining a statewide network of  
10 employment referrals for inmates at the time of their release from  
11 incarceration and aiding inmates in the securing of employment;

12 (6) identifying and facilitating other transitional services  
13 within both governmental and private sectors;

14 (7) surveying employment trends within the State and  
15 making proposals to the Department of Corrections regarding  
16 potential vocational training activities.

17 (B) Further, the Department of Corrections and the Department  
18 of Probation, Parole and Pardon Services are directed to work with  
19 the Department of Motor Vehicles to develop and implement a  
20 plan for providing inmates who are being released from a  
21 correctional facility with a valid photo identification card. To the  
22 extent that funds are available from an individual inmate's  
23 account, the Department of Corrections shall transfer five dollars  
24 to the Department of Motor Vehicles to cover the cost of issuing  
25 the photo identification card. The Department of Motor Vehicles  
26 shall use existing resources and technology to produce the photo  
27 identification card."

28  
29 SECTION 58. Section 24-21-645 of the 1976 Code, as last  
30 amended by an unnumbered Act of 2010 bearing ratification  
31 number R 140, is further amended to read:

32  
33 "Section 24-21-645. (A) The board may issue an order  
34 authorizing the parole which must be signed either by a majority of  
35 its members or by all three members meeting as a parole panel on  
36 the case ninety days prior to the effective date of the parole;  
37 however, at least two-thirds of the members of the board must  
38 authorize and sign orders authorizing parole for persons convicted  
39 of a violent crime as defined in Section 16-1-60. A provisional  
40 parole order shall include the terms and conditions, if any, to be  
41 met by the prisoner during the provisional period and terms and  
42 conditions, if any, to be met upon parole.

1     (B) The conditions of parole must include the requirement that  
2 the parolee must permit the search or seizure, without a search  
3 warrant, with or without cause, of the parolee's person, any vehicle  
4 the parolee owns or is driving, and any of the parolee's possessions  
5 by:

6         (1) any probation agent employed by the Department of  
7 Probation, Parole and Pardon Services; or

8         (2) any other law enforcement officer.

9     However, the conditions of parole for a parolee who was  
10 convicted of or pled guilty or nolo contendere to a Class C  
11 misdemeanor or an unclassified misdemeanor that carries a term of  
12 imprisonment of not more than one year may not include the  
13 requirement that the parolee agree to be subject to search or  
14 seizure, without a search warrant, with or without cause, of the  
15 parolee's person, any vehicle the parolee owns or is driving, or any  
16 of the parolee's possessions.

17     (C) By enacting this provision, the General Assembly intends  
18 to provide law enforcement with a means of reducing recidivism  
19 and does not authorize law enforcement officers to conduct  
20 searches for the sole purpose of harassment. Immediately before  
21 each search or seizure pursuant to this section, the law enforcement  
22 officer seeking to conduct the search or seizure must verify with  
23 the Department of Probation, Parole and Pardon Services or by any  
24 other means available to the officer that the individual upon whom  
25 the search or seizure will be conducted is currently on parole. A  
26 law enforcement officer conducting a search or seizure without a  
27 warrant pursuant to this section shall report to the law enforcement  
28 agency that employs him all of these searches or seizures, which  
29 shall include the name, address, age, gender, and race or ethnicity  
30 of the person that is the subject of the search or seizure. The law  
31 enforcement agency shall submit this information at the end of  
32 each month to the Department of Probation, Parole and Pardon  
33 Services for review of abuse. A finding of abuse of the use of  
34 searches or seizures without a search warrant must be reported by  
35 the Department of Probation, Parole and Pardon Services to the  
36 State Law Enforcement Division for investigation. If the law  
37 enforcement officer fails to report each search or seizure pursuant  
38 to this section, he is subject to discipline pursuant to the employing  
39 agency's policies and procedures.

40     (D) Upon satisfactory completion of the provisional period, the  
41 director or one lawfully acting for him must issue an order which,  
42 if accepted by the prisoner, shall provide for his release from  
43 custody. However, upon a negative determination of parole,

1 prisoners in confinement for a violent crime as defined in Section  
2 16-1-60 must have their cases reviewed every two years for the  
3 purpose of a determination of parole, except that prisoners who are  
4 eligible for parole pursuant to Section 16-25-90, and who are  
5 subsequently denied parole must have their cases reviewed every  
6 twelve months for the purpose of a determination of parole. This  
7 ~~section~~ subsection applies retroactively to a prisoner who has had a  
8 parole hearing pursuant to Section 16-25-90 prior to the effective  
9 date of this act.”

10  
11 SECTION 59. Section 16-1-130 of the 1976 Code, as added by  
12 Act 106 of 2005, is amended to read:

13  
14 “Section 16-1-130. (A) A person may not be considered for a  
15 diversion program, including, but not limited to, a drug court  
16 program or a mental health court, if the:

17 (1) person’s current charge is for a violent offense as defined  
18 in Section 16-1-60 or a stalking offense pursuant to Article 17,  
19 Chapter 3, Title 16;

20 (2) person has a prior conviction for a violent crime as  
21 defined in Section 16-1-60, or a harassment or stalking offense  
22 pursuant to Article 17, Chapter 3, Title 16;

23 (3) person is subject to a restraining order pursuant to the  
24 provisions of Article 17, Chapter 3, Title 16 or a valid order of  
25 protection pursuant to the provisions of Chapter 4, Title 20;

26 (4) person is currently on parole or probation for ~~any offense~~  
27 a violent crime as defined in Section 16-1-60; or

28 (5) consent of the victim has not been obtained unless  
29 reasonable attempts have been made to contact the victim and the  
30 victim is either nonresponsive or cannot be located after a  
31 reasonable search.

32 (B) The provisions of this section do not apply to a diversion  
33 program administered by the South Carolina Prosecution  
34 Coordination Commission or by a circuit solicitor.”

35  
36 PART III

37  
38 Oversight Established

39  
40 SECTION 60. It is the intent of the General Assembly that the  
41 provisions in PART III provide oversight revisions to fiscal impact  
42 statements and also a committee to continue oversight of the

1 implementations of the Sentencing Reform Commission  
2 recommendations.

3

4 SECTION 61. Article 1, Chapter 7, Title 2 of the 1976 Code is  
5 amended by adding:

6

7 “Section 2-7-74.(A) As used in this section, ‘statement of  
8 estimated fiscal impact’ means the opinion of the person executing  
9 the statement as to the dollar cost to the State for the first year and  
10 the annual cost thereafter.

11 (B) The principal author of legislation that would establish a  
12 new criminal offense or that would amend the sentencing  
13 provisions of an existing criminal offense may affix a statement of  
14 estimated fiscal impact of the proposed legislation. Upon request  
15 from the principal author of the legislation, the Office of State  
16 Budget shall assist in preparing the fiscal impact statement.

17 (C) If a fiscal impact statement is not affixed to legislation at  
18 the time of introduction, the committee to which the legislation is  
19 referred shall request a fiscal impact statement from the Office of  
20 State Budget. The Office of State Budget shall have at least fifteen  
21 calendar days from the date of the request to deliver the fiscal  
22 impact statement to the Senate or House of Representatives  
23 committee to which the legislation is referred, unless the Office of  
24 State Budget requests an extension of time. The Office of State  
25 Budget shall not unreasonably delay the delivery of a fiscal impact  
26 statement.

27 (D) The committee shall not take action on the legislation until  
28 the committee has received the fiscal impact statement.

29 (E) If the legislation is reported out of the committee, the  
30 committee shall attach the fiscal impact statement to the  
31 legislation. If the legislation has been amended, the committee  
32 shall request a revised fiscal impact statement from the Office of  
33 State Budget and shall attach the revised fiscal impact statement to  
34 the legislation.

35 (F) State agencies and political subdivisions shall cooperate  
36 with the Office of State Budget in preparing fiscal impact  
37 statements. Such agencies and political subdivisions shall submit  
38 requested information to the Office of State Budget in a timely  
39 fashion.

40 (G) In preparing fiscal impact statements, the Office of State  
41 Budget shall consider and evaluate information as submitted by  
42 state agencies and political subdivisions. The Office of State  
43 Budget shall provide to the requesting Senate or House of

1 Representatives committee any estimates provided by a state  
2 agency or political subdivision, which are substantially different  
3 from the fiscal impact as issued by the Office of State Budget.

4 (H) The Office of State Budget may request information from  
5 nongovernmental agencies and organizations to assist in preparing  
6 the fiscal impact statement.”

7  
8 SECTION 62. Title 24 of the 1976 Code is amended by adding:

9  
10 “Chapter 28

11  
12 Sentencing Reform Oversight Committee

13  
14 Section 24-28-10. There is hereby established a committee to  
15 be known as the Sentencing Reform Oversight Committee,  
16 hereinafter called the oversight committee, which must exercise  
17 the powers and fulfill the duties described in this chapter.

18  
19 Section 24-28-20. (A) The oversight committee shall be  
20 composed of seven members, two of whom shall be members of  
21 the Senate, both appointed by the Chair of the Senate Judiciary  
22 Committee, and one being the Chair of the Judiciary Committee or  
23 his designee; two of whom shall be members of the House of  
24 Representatives, both appointed by the Chair of the House  
25 Judiciary Committee, and one being the Chair of the House  
26 Judiciary Committee or his designee; one of whom shall be  
27 appointed by the Chair of the Senate Judiciary Committee from the  
28 general public at large; one of whom shall be appointed by the  
29 Chair of the House Judiciary Committee from the general public at  
30 large; and one of whom shall be appointed by the Governor.  
31 Provided, however, that in making appointments to the oversight  
32 committee, race, gender, and other demographic factors should be  
33 considered to assure nondiscrimination, inclusion, and  
34 representation to the greatest extent of all segments of the  
35 population of the State. The members of the general public  
36 appointed by the chairs of the Judiciary Committees must be  
37 representative of all citizens of this State and must not be members  
38 of the General Assembly.

39 (B) The oversight committee must meet as soon as practicable  
40 after appointment and organize itself by electing one of its  
41 members as chair and such other officers as the oversight  
42 committee may consider necessary. Thereafter, the oversight  
43 committee must meet at least annually and at the call of the chair

1 or by a majority of the members. A quorum consists of four  
2 members.

3 (C) The oversight committee terminates five years after its first  
4 meeting, unless the General Assembly, by joint resolution,  
5 continues the oversight committee for a specified period of time.

6  
7 Section 24-28-30. The oversight committee has the  
8 following powers and duties:

9 (1) to review the implementation of the recommendations  
10 made in the Sentencing Reform Commission report of February  
11 2010 including, but not limited to:

12 (a) the plan required from the Department of Probation,  
13 Parole and Pardon Services on the Parole Board training and other  
14 goals identified in Section 24-21-10;

15 (b) the report from the Department of Probation, Parole and  
16 Pardon Services on its goals and development of assessment tools  
17 consistent with evidence-based practices;

18 (c) the report from the Office of Pretrial Intervention  
19 Coordinator in the Commission on Prosecution Coordination on  
20 diversion programs required by the provisions of Article 11,  
21 Chapter 22, Title 17; and

22 (d) the report from the Department of Probation, Parole and  
23 Pardon Services on:

24 (i) the number and percentage of individuals placed on  
25 administrative sanctions and the number and percentage of  
26 individuals who have earned compliance credits; and

27 (ii) the number and percentage of probationers and  
28 parolees whose supervision has been revoked for violations of  
29 conditions or for convictions of new offenses;

30 (2) to request data similar to the information contained in the  
31 report required by Section 17-22-1120 from private organizations  
32 whose programs are operated through a court and that divert  
33 individuals from prosecution, incarceration, or confinement, such  
34 as diversion from incarceration for failure to pay child support, and  
35 whose programs are sanctioned by, coordinated with, or funded by  
36 federal, state, or local governmental agencies;

37 (3)(a) to annually calculate:

38 (i) any state expenditures that have been avoided by  
39 reductions in the revocation rate as calculated by the Department  
40 of Probation, Parole and Pardon Services and reported under  
41 Sections 24-21-450 and 24-21-680;

42 (ii) any state expenditures that have been avoided by  
43 reductions in the new felony offense conviction rate as calculated

1 by the Department of Probation, Parole and Pardon Services and  
2 reported under Sections 24-21-450 and 24-21-680.

3 (b) to develop rules and regulations for calculating the  
4 savings in item (3)(a), which shall account at a minimum for the  
5 variable costs averted, such as food and medical expenses, and also  
6 consider fixed expenditures that are avoided if larger numbers of  
7 potential inmates are avoided.

8 (c) on or before December 1 of each year, beginning in  
9 2011, to report the calculations made pursuant to item (3)(a) to the  
10 President of the Senate, the Speaker of the House of  
11 Representatives, the chief justice of the South Carolina Supreme  
12 Court, and the Governor. The report shall also recommend  
13 whether to appropriate up to thirty-five percent of any state  
14 expenditures that are avoided as calculated in item (3)(a) to the  
15 Department of Probation, Parole and Pardon Services.

16 (d) with respect to the recommended appropriations in item  
17 (c), none of the calculated savings shall be recommended for  
18 appropriation for that fiscal year if there is an increase in the  
19 percentage of individuals supervised by the Department of  
20 Probation, Parole and Pardon Services who are convicted of a new  
21 felony offense as calculated in subitem (3)(a)(ii).

22 (e) any funds appropriated pursuant to the recommendations  
23 in item (c) shall be used to supplement, not replace, any other state  
24 appropriations to the Department of Probation, Parole and Pardon  
25 Services.

26 (f) funds received through appropriations pursuant to this  
27 item shall be used by the Department of Probation, Parole and  
28 Pardon Services for the following purposes:

29 (i) implementation of evidence-based practices;

30 (ii) increasing the availability of risk reduction programs  
31 and interventions, including substance abuse treatment programs,  
32 for supervised individuals; or

33 (iii) grants to nonprofit victim services organizations to  
34 partner with the Department of Probation, Parole and Pardon  
35 Services and courts to assist victims and increase the amount of  
36 restitution collected from offenders;

37 (4) to submit to the General Assembly, on an annual basis, the  
38 oversight committee's evaluation of the implementation of the  
39 recommendations of the Sentencing Reform Commission report of  
40 February 2010;

41 (5) to make reports and recommendations to the General  
42 Assembly on matters relating to the powers and duties set forth in  
43 this section, including recommendations on transfers of funding

1 based on the success or failure of implementation of the  
2 recommendations; and

3 (6) to undertake such additional studies or evaluations as the  
4 oversight committee considers necessary to provide sentencing  
5 reform information and analysis.

6  
7 Section 24-28-40. (A) The oversight committee members are  
8 entitled to such mileage, subsistence, and per diem as authorized  
9 by law for members of boards, committees, and commissions  
10 while in the performance of the duties for which appointed. These  
11 expenses shall be paid from the general fund of the State on  
12 warrants duly signed by the chair of the oversight committee and  
13 payable by the authorities from which a member is appointed.

14 (B) The oversight committee is encouraged to apply for and  
15 may expend grants, gifts, or federal funds it receives from other  
16 sources to carry out its duties and responsibilities.

17  
18 Section 24-28-50. (A) The oversight committee must use  
19 clerical and professional employees of the General Assembly for  
20 its staff, who must be made available to the oversight committee.

21 (B) The oversight committee may employ or retain other  
22 professional staff, upon the determination of the necessity for other  
23 staff by the oversight committee.

24 (C) The oversight committee may employ consultants to assist  
25 in the evaluations and, when necessary, the implementation of the  
26 recommendations of the Sentencing Reform Commission report of  
27 February 2010.”

#### 28 29 PART IV 30

31 SECTION 63. The General Assembly finds that all the  
32 provisions contained in this act relate to one subject as required by  
33 Article III, Section 17 of the South Carolina Constitution in that  
34 each provision relates directly to or in conjunction with other  
35 sections to the subject of sentencing reform as stated in the title.  
36 The General Assembly further finds that a common purpose or  
37 relationship exists among the sections, representing a potential  
38 plurality but not disunity of topics, notwithstanding that reasonable  
39 minds might differ in identifying more than one topic contained in  
40 this act.

41  
42 SECTION 64. The provisions of this act are severable. If any  
43 section, subsection, paragraph, item, subitem, subparagraph,



1 sentence, clause, phrase, or word of this act is for any reason held  
2 to be unconstitutional or invalid, such holding shall not affect the  
3 constitutionality or validity of the remaining portions of the act, the  
4 General Assembly hereby declaring that it would have passed each  
5 and every section, subsection, item, subitem, paragraph,  
6 subparagraph, sentence, clause, phrase, and word thereof,  
7 irrespective of the fact that any one or more other sections,  
8 subsections, paragraphs, subparagraphs, sentences, clauses,  
9 phrases, or words hereof may be declared to be unconstitutional,  
10 invalid, or otherwise ineffective.

11  
12 SECTION 65. The repeal or amendment by the provisions of  
13 this act or any law, whether temporary or permanent or civil or  
14 criminal, does not affect pending actions, rights, duties, or  
15 liabilities founded thereon, or alter, discharge, release, or  
16 extinguish any penalty, forfeiture, or liability incurred under the  
17 repealed or amended law, unless the repealed or amended  
18 provision shall so expressly provide. After the effective date of  
19 this act, all laws repealed or amended by this act must be taken and  
20 treated as remaining in full force and effect for the purpose of  
21 sustaining any pending or vested right, civil action, special  
22 proceeding, criminal prosecution, or appeal existing as of the  
23 effective date of this act, and for the enforcement of rights, duties,  
24 penalties, forfeitures, and liabilities as they stood under the  
25 repealed or amended laws.

26  
27 SECTION 66. The provisions of Section 15 for implementation  
28 of a driver's license reinstatement payment plan and the provisions  
29 of Section 18 for implementation of route restricted licenses shall  
30 become effective January 1, 2011, or six months after the signature  
31 of the Governor, whichever event occurs later in time. The  
32 remaining provisions of Part I become effective upon signature of  
33 the Governor. The provisions of Part II take effect on January 1,  
34 2011, for offenses occurring on or after that date. Regulations  
35 required pursuant to this act shall be submitted to the General  
36 Assembly no later than January 11, 2011, or six months after  
37 enactment, whichever event occurs later in time. All other  
38 provisions become effective upon signature of the Governor.  
39 Cases and appeals arising or pending under the law as it existed  
40 prior to the effective date of this act are saved.

41 ----XX----